SHIPBUILDING TRADE REFORM ACT OF 1993

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 1402

TO AMEND THE TARIFF ACT OF 1930 TO PROVIDE EFFECTIVE TRADE REMEDIES UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS AGAINST FOREIGN-BUILT SHIPS THAT ARE SUBSIDIZED OR DUMPED AND TO PROVIDE OTHERWISE FOR FAIR TRADE FOR THE UNITED STATES SHIPBUILDING AND REPAIR INDUSTRY

JULY 1, 1993

Serial 103–22

Printed for the use of the Committee on Ways and Means

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SHIPBUILDING TRADE REFORM ACT OF 1993

THURSDAY, JULY 1, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:45 a.m., in room 1100, Longworth House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[The press release announcing the hearing and a copy of the bill, H.R. 1402, follow:]

FOR IMMEDIATE RELEASE
MONDAY, JUNE 7, 1993

SUBCOMMITTEE ON TRADE #10
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES A PUBLIC HEARING ON H.R. 1402, THE "SHIPBUILDING TRADE REFORM ACT OF 1993"

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will hold a public hearing on H.R. 1402, the "Shipbuilding Trade Reform Act of 1993." The hearing will be held on Thursday, July 1, 1993, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 9:30 a.m.

H.R. 1402 was introduced by Mr. Gibbons, Mr. Payne (D., Va.), and 21 other Members on March 18, 1993, and would amend U.S. trade law to provide effective remedies for domestic shipbuilders and repairers against foreign unfair trade practices. Title I of the bill would close the loophole in existing countervailing and antidumping duty laws which precludes actions against dumped or subsidized sales of ships. Title II of the bill would establish remedies to deal in particular with those situations that cannot be reached under the countervailing and antidumping duty laws and to discourage the use of subsidies by foreign governments. Under this title, a procedure would be established in the Department of Commerce for identifying and listing countries which subsidize their shipbuilding or repair industries. Once listed, a country would have 180 days either to eliminate the subsidies or to sign a trade agreement with the United States to do so. Otherwise, such country would face sanctions under this title.

The House last year twice passed a bill to deal with foreign shipbuilding subsidies, but that bill was not acted upon by the Senate. H.R. 1402 differs from the bill passed by the House last year, including in particular a number of modifications to address various concerns expressed about last year's legislation.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD:

Requests to be heard must be made by telephone to Harriett Lawler, Diane Kirkland, or Karen Ponzurick [telephone (202) 225-1721] by close of business Monday, June 21, 1993. The telephone request should be followed by a formal written request to Janice Mays, Chief Counsel and Staff Director, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The Subcommittee staff will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee office [(202) 225-3943].

(MORE)

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are requested to briefly summarize their written statements. The full statement will be included in the printed record.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 150 copies of their prepared statement to the Subcommittee on Trade office, room 1136 Longworth House Office Building, at least 24 hours in advance of their scheduled appearance. Failure to do so may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any interested person or organization may file written comments for inclusion in the printed record of the hearing. Persons submitting written comments for the printed record should submit at least six (6) copies of their comments by the close of business Monday, July 19, 1993, to Janice Mays, Chief Counsel and Staff Director, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the printed record of the hearing wish to have their statements distributed to the press and the interested public, they may provide 100 additional copies for this purpose to the Subcommittee office, room 1136 Longworth House Office Building, before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

* * * * * * * * * * *

I

103D CONGRESS
1ST SESSION

H. R. 1402

To amend the Tariff Act of 1930 to provide effective trade remedies under the countervailing and antidumping duty laws against foreign-built ships that are subsidized or dumped and to provide otherwise for fair trade for the United States shipbuilding and repair industry.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1993

Mr. GIBBONS (for himself, Mr. STUDDS, Mr. LIPINSKI, Mr. BATEMAN, Mr. CARDIN, Mr. PAYNE of Virginia, Mr. KOPETSKI, Mr. JEFFERSON, Mr. PICKETT, Mr. ANDREWS of Maine, Mr. GENE GREEN of Texas, Mr. TAUZIN, Mrs. BENTLEY, Mr. MURPHY, Mr. FILNER, Mrs. THURMAN, Ms. SNOWE, Mr. HUNTER, Mr. MURTHA, Mr. REED, Mr. LIVINGSTON, Mr. GOODLING, and Mr. TORRICELLI) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Tariff Act of 1930 to provide effective trade remedies under the countervailing and antidumping duty laws against foreign-built ships that are subsidized or dumped and to provide otherwise for fair trade for the United States shipbuilding and repair industry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TREATMENT OF VESSELS UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS

SEC. 101. AMENDMENT TO TITLE VII OF THE TARIFF ACT OF 1930.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 is amended by adding after section 771B the following new section:

"SEC. 771C. SPECIAL RULES IN APPLYING TITLE TO FOREIGN-MADE VESSELS.

"(a) DEFINITION.—The term 'vessel' means any vessel of a kind described in heading 8901, 8902.00.00, or 8906 (other than a warship) of the Harmonized Tariff Schedule of the United States of not less than 100 gross tons, as measured under the International Convention on Tonnage Measurement of Ships, 1969.

"(b) VESSELS CONSIDERED AS MERCHANDISE.—Notwithstanding any other provision of law, a vessel is merchandise for purposes of this title and shall be subject to antidumping or countervailing duties if an order has been issued, but only if the construction or repair of the vessel was carried out in a foreign country which—

"(1) is not a signatory to a trade agreement with the United States that provides for the imme-

diate elimination of the dumping of vessels and the subsidizing of vessel construction or repair; or

"(2) is a signatory to a trade agreement described in paragraph (1) but was not, as determined by the Secretary, in compliance with its obligations under the trade agreement during the construction or repair.

"(c) APPLICATION OF SUBTITLES A AND B.—

"(1) IN GENERAL.—In applying subtitles A and B with respect to vessels constructed, reconstructed, or repaired in foreign countries—

"(A) a vessel shall be treated as sold for importation into the United States when a United States person enters into a contract for—

"(i) the construction or reconstruction of the vessel by, or the purchase (or leasing, if the equivalent of a purchase) of the vessel after construction or reconstruction from, the builder; or

"(ii) the repair of the vessel; and

"(B) a vessel sold for importation into the United States shall be treated as being offered for entry for consumption under the tariff laws at the time of its first arrival at a port or place

in the United States after construction, reconstruction, or repair, regardless of where the vessel is registered or documented.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'United States person' means—

"(A) any individual or entity described in subsection (a) of section 12102 of title 46, United States Code;

"(B) any agent or other person acting on behalf of any individual or entity referred to in subparagraph (A); or

"(C) any person directly or indirectly owned or controlled by any individual or entity referred to in subparagraph (A).".

(b) APPLICABILITY OF AMENDMENT.—The amendment made by subsection (a) applies to a vessel—

(1) constructed, reconstructed, or repaired under a contract entered into after the date of enactment of this Act; or

(2) a contract for the construction, reconstruction, or repair of which was entered into on or before the date of the enactment of this Act if such construction, reconstruction, or repair is not completed within 30 months after such date.

TITLE II—FAIR TRADE FOR THE UNITED STATES SHIPBUILDING AND REPAIR INDUSTRY

SECTION 201. SHORT TITLE.

This title may be cited as the "Shipbuilding Trade Reform Act of 1993".

SEC. 202. CONGRESSIONAL FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) in 1981, the United States Government terminated funding for the construction differential subsidy program, thereby ending direct subsidization of commercial shipbuilding in the United States;

(2) since 1981, the international market for ship construction has been distorted by a wide array of subsidies and other anticompetitive practices by foreign countries, including but not limited to, the member countries of Working Party 6 of the Organization for Economic Cooperation and Development;

(3) such subsidies and anticompetitive practices include, but are not limited to, direct grants, preferential financing, equity infusions, research and development assistance, restructuring aid, special tax concessions, debt forgiveness, and other forms of direct and indirect assistance;

(4) foreign countries that directly or indirectly provide subsidies or other forms of anticompetitive assistance for the construction or repair of vessels are engaging in unjustifiable, unreasonable and discriminatory trade practices which—

(A) burden and restrict United States commerce,

(B) materially injure the United States ship construction and repair industry, and

(C) create general or special conditions unfavorable to the ability of United States shipbuilders to engage in the construction of vessels for international commerce;

(5) foreign shipbuilding subsidies have caused, and threaten to cause, material injury to the United States shipbuilding and ship repair industry, as evidenced by—

(A) the closure of more than 40 major shipyards and the loss of over 120,000 jobs in shipyards and their supplier base since 1981,

(B) the potential loss of another 180,000 jobs by 1998 if foreign subsidies are not eliminated,

(C) the decline in the United States share of the international commercial vessel construc-

tion market from 7.9 percent in 1979 to less than 1 percent in 1991,

(D) the sharp drop in the number of oceangoing commercial vessels on order or under construction in United States shipyards from 70 vessels in 1979 to 1 vessel in 1991,

(E) the substantial reduction in shipyard profitability and the industry's difficulty in raising capital,

(F) the dramatic decline in the capacity utilization of United States shipyards and the lost opportunities for technological advancement; and

(G) the significant price underselling by foreign shipyards;

(6) existing United States trade laws and trade agreements provide limited redress to domestic producers of ships for the trade-distorting subsidies and dumping practices of foreign shipbuilders;

(7) a strong, effective multilateral agreement among shipbuilding nations to eliminate trade-distorting practices in the ship construction industry is the best means of providing for fair international competition, however, absent such an agreement, greater redress under United States law against un-

fair and unreasonable foreign trade practices in commercial ship construction is necessary;

(8) a viable United States ship construction, repair and supplier industry is necessary to achieve the national defense and economic security interests of the United States; and

(9) United States shipyards, which have become almost exclusive defense contractors, are positioning themselves to make those investments in commercial facilities, ship designs, manufacturing process, and structural reorganization that are necessary for their conversion to compete in the international commercial ship construction and repair market and thereby ensure a viable United States industry which can respond to the Nation's future national security requirements; however, this conversion to the commercial market cannot be achieved unless the massive subsidies provided by foreign governments for the construction and repair of commercial ships are eliminated.

(b) PURPOSE.—It is the purpose of this title to ensure fair trade in the commercial shipbuilding and repair industry by providing for additional trade remedies against unfair foreign competition, particularly with regard to those situations that cannot be dealt with effec-

tively under the antidumping and countervailing duty laws.

SEC. 203. LISTING OF SUBSIDIZING COUNTRIES.

(a) ESTABLISHMENT OF LIST.—The Secretary shall establish and maintain a list containing the name of each foreign country that provides, after the date of the enactment of this Act, directly or indirectly, any subsidy for the construction or repair of vessels. The Secretary shall publish the list in the Federal Register on at least a biannual basis.

(b) STATUTORY LISTINGS.—

(1) IN GENERAL.—Unless the Secretary determines, with clear and convincing evidence, that a foreign country that was a party to negotiating a multilateral agreement for the elimination of shipbuilding subsidies in the Organization for Economic Cooperation and Development Working Party 6 on October 16, 1991, does not provide, directly or indirectly, any vessel construction or repair subsidy, the Secretary shall, on the date of the enactment of this Act—

(A) place the foreign country on the list;

(B) notify the foreign country of its inclusion on the list; and

(C) publish notice of the listing in the Federal Register.

(2) DURATION OF LISTING.—Each foreign country listed under subsection (a) as a result of this paragraph shall remain on the list until such time as the foreign country signs a trade agreement with the United States that provides for the immediate elimination of subsidies for the construction and repair of vessels (including the elimination of continuing benefits from prior subsidy programs).

(c) LISTINGS AFTER INVESTIGATIONS.—

(1) INITIATION OF INVESTIGATIONS.—

(A) INITIAL INVESTIGATION.—On the date of the enactment of this Act, the Secretary shall initiate an initial investigation into the practices of foreign countries that provide, directly or indirectly, subsidies for the construction or repair of vessels in such countries. The investigation required under this subparagraph shall be concerned with those foreign countries, other than those required to be listed under subsection (b), which the Secretary has reasonable cause to believe provide, directly or indirectly, any subsidy for the construction or repair of vessels.

(B) SUBSEQUENT INVESTIGATIONS.—If at any time after the date of the enactment of this Act, the Secretary receives—

(i) new information; or

(ii) a petition for an investigation from an interested party that specifically alleges the existence of one or more subsidy practices and contains information reasonably available to the petitioner supporting such allegation;

the Secretary shall, within 20 days after the date of receipt, initiate an investigation into the subsidy practices of the foreign country if the Secretary has reasonable cause, on the basis of such information or petition, to believe that the foreign country is providing, directly or indirectly, any subsidy for the construction or repair of vessels in that country.

(2) ADMINISTRATIVE PROCEDURE FOR INVESTIGATIONS; PRELIMINARY DETERMINATIONS.—

(A) NOTICE.—Within 7 days after initiating an investigation under paragraph (1)(A) or (B), the Secretary shall publish in the Federal Register a notice of such investigation together with a request for public comments.

(B) PUBLIC COMMENTS.—The Secretary shall—

(i) receive public comments during the 30-day period following the day on which notice is published under subparagraph (A); and

(ii) subject to section 206(a), make such comments available to the general public upon request.

(C) PRELIMINARY DETERMINATION.—Within 30 days after the close of the public comment period referred to in subparagraph (B), the Secretary, on the basis of the evidence contained in the record, shall make a preliminary determination regarding whether the foreign country provides, directly or indirectly, any subsidy for the construction or repair of vessels.

(D) NOTICE OF PRELIMINARY DETERMINATION.—Within 7 days after the day on which a preliminary determination is made under subparagraph (C), the Secretary shall publish in the Federal Register a notice of the preliminary determination together with—

(i) an explanation of the determination, including the nature and extent of

any subsidy identified as the basis for the preliminary determination; and

(ii) a request for public comment regarding the preliminary determination.

(E) PUBLIC COMMENTS ON PRELIMINARY DETERMINATION.—The Secretary shall—

(i) receive public comments during the 30-day period following the day on which notice is published under subparagraph (D); and

(ii) subject to section 206(a), make such comments available to the general public upon request.

(d) FINAL DETERMINATION.—

(1) IN GENERAL.—Within—

(A) 30 days after the close of the public comment period referred to in subsection (c)(2)(E)(i), in case of an investigation initiated under subsection (c)(1)(A) or (B); or

(B) 30 days after the completion of an investigation regarding an emergency listing under subsection (e);

the Secretary shall make a final determination regarding whether a foreign country provides, directly or indirectly, any subsidy for the construction or re-

pair of vessels. Any determination made by the Secretary under this subsection shall be based solely upon evidence contained in the record, including that information which is otherwise treated as proprietary under 206(a).

(2) NOTIFICATION AND PUBLICATION OF LISTING.—If the Secretary determines under paragraph (1) that a foreign country provides, directly or indirectly, any subsidy for the construction or repair of vessels, the Secretary shall, within 7 days after the date of the determination—

(A) place the foreign country on the list;

(B) notify the foreign country of its inclusion on the list; and

(C) publish in the Federal Register a notice of the determination and listing together with a full explanation of the determination, including the nature and extent of any subsidy identified as the basis for the determination.

(e) EMERGENCY LISTING.—If at any time the Secretary determines that compelling prima facia evidence has been provided by any interested party indicating that a foreign country is providing any subsidy for the construction or repair of vessels, the Secretary shall, within 7 days after receiving such evidence, place that country

on the list. Within 7 days after making an emergency listing under this subsection, the Secretary shall—

(1) notify the affected foreign country thereof;

(2) publish in the Federal Register a notice of the determination and the emergency listing, together with a request for public comment and a schedule for an investigation into the alleged subsidy; and

(3) initiate an investigation into the alleged subsidy.

An investigation initiated under paragraph (3) shall be concluded by the Secretary within 60 days after the day of initiation. Upon completion of the investigation, the Secretary shall make a final determination under subsection (d).

(f) RECONSIDERATION AND REMOVAL OF LISTINGS.—

(1) RECONSIDERATION.—The Secretary may reconsider a final determination under subsection (d)—

(A) after receiving an application for reconsideration from the foreign country listed under subsection (a) as a result of that determination, if the application alleges changed circumstances concerning the elimination by the

foreign country of its subsidy practices and the Secretary considers the allegations sufficient to warrant a reconsideration; or

(B) if the Secretary receives information concerning the signing of an agreement between the United States Government and that foreign country that provides for the immediate elimination by that country of construction and repair subsidies for vessels.

(2) RESTRICTION ON RECONSIDERATION.—A foreign country may not make more than one application for reconsideration under this subsection in any calendar year.

(3) BURDEN OF PERSUASION.—In any reconsideration under paragraph (1)(A), the burden of persuasion regarding whether there are changed circumstances sufficient to warrant a determination that the foreign country should be removed from the list is on the applicant.

(4) REMOVAL FROM LIST.—The Secretary may remove a foreign country from the list only if the Secretary determines—

(A) based solely on the evidence contained in the public record, including that information which is otherwise treated as proprietary under

section 206(a), that the foreign country does not provide any subsidy, directly or indirectly, for the construction or repair of vessels (including any continuing benefit from any prior subsidy program); or

(B) that there is a signed agreement between the United States Government and the foreign country that provides for the immediate elimination of subsidies for the construction and repair of vessels.

(5) ADMINISTRATIVE PROCEDURES FOR RECONSIDERATION.—

(A) NOTICE AND COMMENT.—After receiving an application for reconsideration under paragraph (4) from a foreign country, the Secretary shall—

(i) within 7 days publish in the Federal Register the text of the application together with a request for public comments; and

(ii) receive comments from the public for a period of 60 days after the date of publication and, subject to section 206(a), make such comments available to the general public upon request.

(B) REVIEW AND DETERMINATION.—Within 90 days after receiving an application for reconsideration under paragraph (4), the Secretary shall—

(i) review the comments received under subparagraph (A) and issue a final affirmative or negative determination regarding the removal of the foreign country from the list; and

(ii) publish notice in the Federal Register of the determination together with a full explanation thereof.

(g) JUDICIAL REVIEW.—

(1) REVIEW OF DETERMINATION.—Within 30 days after the date of publication in the Federal Register of a final determination of the Secretary made under subsection (d)(1) or (f)(5)(B), any person who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

(2) PROCEDURES AND FEES.—The procedures and fees set forth in chapter 169 of title 28, United States Code, apply to an action under this subsection.

(3) STANDARD OF REVIEW.—The court shall hold unlawful any determination, finding, or conclusion found to be unsupported by substantial evidence on the record, or otherwise not in accordance with law.

(4) RECORD FOR REVIEW.—The record for review shall consist of a copy of all information presented to or obtained by the Secretary during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings, as well as a copy of the determination, all transcripts or records of conferences and hearings, and all notices published in the Federal Register.

(5) STANDING.—Any person who was a party to the administrative proceedings described in this section shall have the right to appear and be heard as a party in interest before the United States Court of International Trade. The party filing the action shall notify all such persons of the filing of an action

under this section, in the form, manner, and within the time prescribed by the rules of the court.

(6) CONFORMING AMENDMENT.—Section 1581 of title 28, United States Code, is amended by adding the following subsection:

"(k) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 203(g) of the Shipbuilding Trade Reform Act of 1993.".

SEC. 204. PENALTIES.

(a) PENALTY FOR FALSE INFORMATION AND RENEWAL OF SUBSIDIES.—

(1) IN GENERAL.—The Secretary shall place a foreign country on the list for a period of not less than 5 years if the Secretary—

(A) determines that a foreign country provided the Secretary with false or misleading information during any investigation or reconsideration under section 203; or

(B) after making a final determination under section 203(d) or (f) that the foreign country is not providing a subsidy, determines that the foreign country provides, directly or indirectly, any new construction or repair subsidy

(including the reinstatement of any benefit under any prior subsidy program).

A listing required by this subsection shall be made within 30 days after the date of the determination under paragraph (1) or (2).

(2) TIME LIMITS FOR DETERMINATIONS.—The Secretary shall make a determination under subparagraph (A) or (B) of paragraph (1) within 30 days after the day on which the Secretary receives information indicating that a violation of the subparagraph has likely occurred.

(b) PENALTIES FOR FAILURE TO ELIMINATE SUBSIDIES.—

(1) PRECONDITION FOR IMPOSITION OF PENALTIES.—Actions by the Secretary under paragraphs (2), (3), and (4) may be taken only if the Secretary determines that the foreign country concerned has been notified of its inclusion on the list and has failed within 180 days after that notification to enter into any agreement with the United States that provides for the immediate elimination of subsidies for the construction and repair of vessels.

(2) PENALTIES FOR NEW AFFECTED VESSELS.—Subject to paragraph (1) and subsection (c),

the Secretary shall take one or more of the following actions with respect to any new affected vessel:

(A) Limit the sailings of the vessel to or from the United States, or the amount of cargo carried, by the vessel to not less than 50 percent of the number of sailings, or the amount of cargo carried, by the vessel during the immediately preceding full calendar year.

(B) Impose on the vessel a fee not less than $500,000 and not more than $1,000,000 per voyage.

(C) Direct the appropriate customs officer at any port or place of destination in the United States to refuse the clearance required by section 4197 of the Revised Statutes of the United States to the vessel.

(D) Direct the Secretary of the department in which the Coast Guard is operating to deny entry for purpose of oceanborne trade of the vessel to any port or place in the United States or the navigable waters of the United States.

(3) PENALTIES FOR EXISTING AFFECTED VESSELS.—Subject to paragraph (1) and subsection (c), if the Secretary finds the existence of conditions unfavorable to the ability of any United States ship-

builder to engage in the construction or repair of vessels for international commerce which arise out of, or result from, a subsidy provided by a foreign country on the list established under subsection (a), the Secretary shall take either or both of the actions described in subparagraphs (A) and (B) of paragraph (2) with respect to an existing affected vessel of that country.

(4) CARGO DIVERSION.—Subject to paragraph (1) and subsection (c), the Secretary shall direct the appropriate customs officer to deny entry of cargo into the United States that has been transported on an affected vessel if that cargo has been transported to a port or place in the United States through a foreign port or place in a country contiguous to the United States.

(5) DEFINITIONS.—As used in this subsection:

(A) The term "affected vessel" means a vessel—

(i) that is documented under the laws of a foreign country that is on the list; or

(ii) the controlling interest in which is held by a citizen or national of, or a legal entity existing under the laws of, a foreign country that is on the list, regardless of

whether the vessel is documented under the laws of that country.

(B) The term "existing affected vessel" means an affected vessel that is not a new affected vessel.

(C) The term "new affected vessel" means an. affected vessel that was constructed after the date of the enactment of this Act, unless such construction was completed within 30 months after such date of enactment under a contract entered into before such date of enactment.

(c) IMPOSITION AND DURATION OF PENALTIES IMPOSED UNDER THIS SECTION.—No penalty may be imposed under this section before 120 days after the date of the enactment of this Act. Any penalty imposed under subsection (b)(2), (3), or (4) shall remain in effect until such time as the foreign country is removed from the list under section 203(f).

SEC. 205. TRADE AGREEMENTS.

(a) IN GENERAL.—Any negotiation to which the United States is a party for the elimination of subsidies for the construction or repair of vessels by foreign countries shall be conducted by the United States Government

in full consultation with the affected industries in the United States.

(b) MONITORING.—The Secretary shall monitor the compliance of each foreign country with any agreement to which the United States and such country are parties for the elimination of subsidies for the construction or repair of vessels. The Secretary shall publish annually in the Federal Register the findings made by the Secretary under this subsection together with a request for public comments.

(c) PENALTY FOR NONCOMPLIANCE.—If, based on the findings made and the public comments received under subsection (b), the Secretary determines (within 90 days after the day of publication of the findings under subsection (b)) that a foreign country is not in compliance with the agreement, the Secretary shall, within 7 days after making such determination, place such foreign country on the list and impose penalties under paragraph (2), (3), or (4) of section 204(b) with respect to such country (and for purposes of applying any such penalty, paragraph (1) of section 204(b) shall be disregarded).

SEC. 206. GENERAL ADMINISTRATIVE PROVISIONS.

(a) PROPRIETARY INFORMATION.—The procedures set forth in section 777 of the Tariff Act of 1930 shall govern the rights of access to information obtained by the

Secretary during the course of any investigation conducted under section 203.

(b) INFORMATION USED IN MAKING DETERMINATIONS.—The Secretary shall, before making any final determination under section 203, 204, or 205 verify all information that will be relied upon in making that determination. If the Secretary is unable to verify any information submitted, the Secretary shall use the best information available as the basis for action. Whenever a party refuses or is unable to produce the information requested in a timely manner and in the form provided, the Secretary shall use the best information otherwise available. All information presented to or obtained by the Secretary shall be part of the record of the proceeding.

(c) PUBLIC AVAILABILITY OF DETERMINATIONS.—The Secretary shall make available for public inspection the text of all determinations made under section 203, 204, or 205.

SEC. 207. DEFINITIONS.

(a) DEFINITIONS.—As used in this title:

(1) The term "conditions unfavorable to the ability of any United States shipbuilder to engage in the construction or repair of vessels for international commerce" includes, but is not limited to, any conditions available to, and favorable for, foreign ship-

builders which are not reciprocally available to and favorable for United States shipbuilders and which—

(A) provide any disincentive to investment in United States ship construction or repair facilities, equipment, and technology;

(B) contribute to any reduction in the competitiveness of any United States shipbuilder to engage in the construction or repair of vessels for international commerce; or

(C) otherwise contribute to any distortion of the international market for ship construction or repair.

(2) The term "construction" includes reconstruction.

(3) The term "interested party" means—

(i) a person that engages in ship construction or repair in the United States;

(ii) a certified union or recognized union or group of workers which is representative of an industry that engages in ship construction or repair in the United States;

(iii) a trade or business association whose members include firms, partnerships, or other

entities that engage in ship construction or repair in the United States; and

(iv) an association, a majority of whose members is composed of interested parties described in clauses (i), (ii), and (iii) with respect to ship construction.

(4) The term "foreign shipyard" includes a ship construction or repair facility located in a foreign country that is directly or indirectly owned, controlled, managed, or financed by a foreign shipyard that receives or benefits from a subsidy.

(5) The term "list" means the list established under section 203(a).

(6) The term "Secretary" means the Secretary of Commerce.

(7) The term "subsidy" includes, but is not limited to, any of the following:

(A) Officially supported export credits and development assistance.

(B) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including—

(i) grants;

(ii) loans and loan guarantees other than those available on the commercial market;

(iii) forgiveness of debt;

(iv) equity infusions on terms inconsistent with commercially reasonable investment practices;

(v) preferential provision of goods and services; and

(vi) public sector ownership of commercial shipyards on terms inconsistent with commercially reasonable investment practices.

(C) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including the kinds of support listed in clauses (i) through (v) of subparagraph (B), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

(D) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to

shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

(E) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions and preferences, including accelerated depreciation, if the benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

(F) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

(G) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

(H) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Appli-

cation of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

(8) The term "vessel" means any self-propelled, seagoing vessel—

(A) of not less than one hundred gross tons, as measured under the International Convention of Tonnage Measurement of Ships, 1969; and

(B) not exempt from entry under section 441 of the Tariff Act of 1930.

○

Chairman GIBBONS. Good morning, ladies and gentlemen. As all of you know, this is the Trade Subcommittee of the Ways and Means Committee, and the purpose of this hearing this morning is to receive testimony from the administration and other interested witnesses on H.R. 1402, the Shipbuilding Trade Reform Act of 1993, a bill I introduced with Mr. Payne of this subcommittee and 21 other Members on March 18 of this year.

In the Senate, S. 990 is the companion bill to our bill; it was introduced by Senator Breaux on May 19, 1993.

The purpose of these bills is to provide effective remedies for domestic shipbuilders and repairers against unfair foreign trade practices. The members will recall that during the last Congress, the House passed the Shipbuilding Fair Trade Act on two occasions, but it foundered in the Senate because there were some differences, mainly expressed by Senator Breaux, that time did not permit us to work out. This year, Senator Breaux and I have cooperated and worked toward a common approach. I think that the chances and the opportunities of this bill becoming law are far better this year than they were last.

The plight of the domestic shipbuilding industry continues to worsen as we move along the path of downsizing our military, and foreign governments continue to subsidize their own shipbuilders. It is clear that if the U.S. shipbuilders are to survive over the longer term, they must reenter the worldwide commercial market and they must do so under fair terms of competition, terms that not only apply to the United States, but to all of our competitors internationally that are building ships.

It has always been my hope that the United States could achieve an international agreement setting the rules for fair competition in shipbuilding through negotiations. Unfortunately, the negotiations on this subject have proceeded not only at a snail's pace but, frankly, have not been successful after almost 4 or 5 years of talks.

And it is our intention, and my specific intention, to give our negotiators not only a nudge, but some leverage to use on the foreigners in achieving international understandings as to how ships should be built and to remove unfair trade practices that persist.

Our first witness today is Ambassador Rufus Yerxa, who is the Deputy U.S. Trade Representative and, of course, a former staff member of whom we are very proud, from this subcommittee.

Chairman GIBBONS. Do any of our other members wish to make a statement.

Mr. MCNULTY. No, thank you, Mr. Chairman.

Chairman GIBBONS. Ambassador, we too are anxious to hear from you.

STATEMENT OF HON. RUFUS H. YERXA, DEPUTY U.S. TRADE REPRESENTATIVE, OFFICE OF THE U.S. TRADE REPRESENTATIVE, ACCOMPANIED BY DONALD PHILLIPS, ASSISTANT U.S. TRADE REPRESENTATIVE FOR INDUSTRY

Ambassador YERXA. Thank you, Mr. Chairman. It is a pleasure to be here this morning. I am accompanied today by Don Phillips, who is the Assistant U.S. Trade Representative for Industry and who has been participating in shipbuilding negotiations.

As you know from my prior employment background, Mr. Chairman, I like to have someone with me who knows what he is talking about.

Chairman GIBBONS. All of us do.

Ambassador YERXA. So I brought Mr. Phillips with me and he can answer detailed questions about the negotiations.

I want to report to you on the status of our efforts on behalf of the U.S. shipbuilding industry and, in particular, to cover the efforts we are making to negotiate a multilateral agreement to eliminate subsidies to shipbuilders around the world, as you indicated in your opening statement, and also to present our views on legislative proposals to deal with the trade problems facing this industry, primarily your legislation, H.R. 1402.

I am also prepared to answer any questions you might have about the study of this industry that has been undertaken by the administration to make recommendations to restore its international competitiveness.

This important industry has encountered serious challenges that have reduced demand for its output and have forced cutbacks in production and employment and have reduced profitability. For a long time, U.S. yards were sustained by large orders for naval vessels, but in recent years, facing the military cutbacks and more formidable long-term demand prospects for ships, the industry has recognized the need to establish a competitive presence in world commercial shipbuilding.

This recognition, combined with the awareness of distortion in the market caused by widespread subsidies in many countries of the world, led the Shipbuilders Council of America to seek relief under section 301 from foreign subsidy practices. They filed their petition in 1989, as you are aware, Mr. Chairman, and, in response, the United States initiated the negotiation of a multilateral agreement to eliminate all subsidies to shipbuilders within the OECD framework. The European Community, Norway, Finland, Sweden, Japan, and Korea, which are the major shipbuilding nations of the world, are all participating in these negotiations.

Now, I would say that a fair degree of progress was made in these negotiations at the outset. Within a year, a preliminary draft containing basic principles of agreement was prepared and generally approved and, in addition, an annex was hammered out that defined a comprehensive list of trade distortive measures that would be forbidden under the agreement. Now, that is the good news.

The bad news is that these negotiations became drawn out as talks focused on the few issues that are the most sensitive and complicated, most notably the injurious pricing discipline, the timetable for elimination of subsidies, and the coverage of indirect subsidies, such as home credit schemes.

After several missed deadlines, we found ourselves at a point where we had serious doubts about the interest of other parties in concluding the agreement and, consequently, the prospects for a successful conclusion. At the April 1992 meeting, facing a continued lack of convergence on resolving certain issues, we told the parties we were not prepared to schedule further meetings until it

was clear that all participants were committed to concluding an agreement and there were reasonable prospects for success.

Although formal negotiations were suspended, we continued bilateral consultations with various parties. Since early this year, the new chairman of the OECD charged with the shipbuilding negotiations, Swedish Ambassador Staffan Sohlman, has undertaken efforts to contact all parties to assess the prospects for resumption of the negotiations. And based on their interest, the chairman arranged for an informal meeting last week in the OECD.

After consultations, the chairman set forth guidelines that called for a January 1, 1995, deadline for eliminating subsidy programs. It included substantive proposals on several key issues, such as the injurious pricing mechanism, and it set forth a schedule of working sessions beginning as early as July on specific issues with a view to concluding an agreement later this year.

The parties have been asked by the chairman to refer the proposed approach to their capitals and to indicate by July 8 whether or not they can accept the chairman's proposal for resuming negotiations. For our part, we applaud the chairman's efforts and are prepared to resume on the basis of the approach he has set forth, assuming that other participants are also willing to do so without any further qualifications or interpretations.

If other parties also accept the proposal, it will reflect a significant forward movement, Mr. Chairman, on points that have been divisive, and will, we believe, give us some reasonable hope of quickly concluding the negotiations. Now, that, of course, is not any guarantee of success, but it does give us a fresh basis for a concerted effort by this administration to conclude an agreement.

Let me turn to legislative proposals, Mr. Chairman, and, of course, highlighting the legislation which you have introduced. I know that you are interested in the administration's views on H.R. 1402, which, as you stated on introduction, is designed to impress on other countries the importance of eliminating their subsidies in the shipbuilding industry.

It goes without saying that we share the same objective and are aware of the possibility that an agreement might still elude us. Consequently, we are prepared to work with the Congress to develop remedies for the trade policy problems faced by our shipbuilding industry in ways that would support the long-term objective of eliminating these subsidies, although we would consider the proposed legislation unnecessary should our multilateral negotiations be successful.

We do have concerns about certain aspects of the bill, and believe that we need to work with you to ensure that the legislation will not work at cross purposes with our common objective and would be consistent with our overall trade policy. Some of the areas where we would indicate some work needs to be done would include the following points:

First, that we believe investigations under a domestic procedure should be complaint driven; secondly, we think there would need to be the inclusion of an adverse effects test; thirdly, we think there needs to be greater discretion in administering sanctions under the bill; and, lastly, there are two provisions which we need to talk to you about, the cargo diversion provision, which would

pose administrative problems and might be challenged in the GATT, and the provision subjecting ships to antidumping/countervailing duties remedies poses significant administrative, technical, and legal difficulties.

But I think, Mr. Chairman, that working closely with you and your staff on these and other detailed issues would be very beneficial and could result in legislation that the administration would very strongly support. I am prepared to work closely with you and answer questions at this hearing and, of course, begin the process with you and your staff of working out a final legislative proposal.

[The prepared statement follows:]

Testimony on Shipbuilding

House Ways and Means Trade Subcommittee

July 1, 1993

Ambassador Rufus Yerxa
Deputy U.S. Trade Representative

Good Morning, Mr. Chairman and members of the Committee. I am Rufus Yerxa, Deputy U.S. Trade Representative. I am pleased to report to you on the status of our efforts on behalf of the U.S. shipbuilding industry. I would like to cover three areas: (1) to bring you up to date on the efforts we are making to negotiate a multilateral agreement to eliminate subsidies to shipbuilders around the world, (2) to present our views on legislative proposals to deal with the trade problems facing this industry, and (3) to report on a study of this industry we have undertaken with a view to making recommendations to restore its international competitiveness.

Decline in Demand

This important industry has encountered serious challenges that have reduced demand for its output and have forced cutbacks in production and employment and reduced profitability. Worldwide demand for ocean-going vessels declined sharply from 1974, when the number of ships on order peaked at 2824, to a low of 817 in 1987. This decline forced shipbuilding facilities around the world to be shut down and competition became extremely intense.

Foreign Subsidies

During this period, many shipbuilding industries pressed their governments for assistance. In response, countries stepped up their aid to shipyards with massive levels of subsidies in virtually every form. In 1981, however, subsidies to the U.S. shipbuilding industry were discontinued. U.S. yards were sustained by the large orders for naval vessels for a time while prices for commercial vessels were under heavy downward pressure due to reduced demand and foreign subsidy practices. In recent years, however, in the face of military cutbacks and more formidable long-term demand prospects for ships, the industry has recognized the need to establish a competitive presence in world commercial shipbuilding.

Section 301 Petition

This recognition, combined with awareness of distortion in the market caused by widespread subsidies, led the Shipbuilders Council of America (SCA) to seek relief under Section 301 from foreign subsidy practices. Accordingly, in 1989, the SCA filed a formal petition for an investigation of such practices by Japan, Korea, Germany and Norway. The U.S. Trade Representative countered with a proposal to seek a multilateral agreement to eliminate all subsidies to shipbuilders within the OECD framework. The European Community (EC), Norway, Finland, Sweden, Japan and Korea, the major shipbuilding nations of the world, are all participating in these negotiations.

OECD Negotiations

With SCA approval, the United States initiated negotiations in 1989 and made a fair degree of progress at the outset. Within a year a preliminary draft containing basic principles of agreement was prepared and generally approved. In addition, an Annex I was hammered out that defined a comprehensive list of trade distortive measures that would be forbidden under the agreement.

Negotiations became drawn out, however, as talks focused on the few issues that are the most sensitive and complicated. One of

the most critical of these issues dealt with the need to fashion a remedy for dumping. Because ships are unique, in that they carry traded goods to ports for entry into commerce of countries but never actually enter the commerce of a country as goods, ships are not regarded as imported goods, and therefore, are not subject to the traditional countervailing and anti-dumping duty remedies. For that reason, the parties to the OECD negotiations agreed that as part of an overall package of measures for eliminating subsidies, there would need to be a discipline included that would deal with "injurious pricing" in the unique context of the shipbuilding industry. A long series of technical talks was required to define dumping, ownership, and specific remedies that could be applied if injurious pricing or dumping of ships occurred.

Nailing down the deadline for ending existing subsidy programs and the conditions governing their phaseout was also extremely difficult. Finally, there have been major disagreements about the coverage of the prohibition on indirect subsidies, i.e., programs for shipowners or other third parties, such as home credit schemes, which might be used to extend benefits to shipbuilders.

<u>April 1992 Impasse</u>

The U.S. government and U.S. negotiators have worked with each of the parties to help them understand the importance of an agreement to eliminate subsidies, and to seek to work out their differences. However, after several missed deadlines, we found ourselves at a point where we had serious doubts about the interest of other parties in concluding an Agreement and, consequently, the prospects for a successful conclusion of one. As a result, at the April 1992 meeting, facing a continued lack of convergence on resolving certain issues, we told the parties that we were not prepared to schedule further meetings until it was clear that all participants were committed to conclude an agreement and there were reasonable prospects for success.

<u>Bilateral Efforts</u>

Although formal negotiations were suspended, we continued bilateral consultations with various parties to explore their interest in working out agreements to eliminate subsidies at the bilateral or plurilateral level. It became clear to us that there was a pronounced preference for an agreement with the broadest participation possible. To explore the degree of commitment behind that preference, the OECD Chairman called for an informal meeting restricted to heads of delegations in the OECD in December 1992. That meeting confirmed that there was continued broad interest among the parties in a multilateral agreement, and the parties were asked to reflect on the possible basis for the resumption of negotiations. Since early this year, the new Chairman of the OECD charged with shipbuilding negotiations, Swedish Ambassador Staffan Sohlman, has undertaken efforts to contact all parties to ascertain their views and assess the prospects for resumption of negotiations. Based on their interest, the Chairman arranged for an informal meeting last week in the OECD.

<u>Grounds for Resumption of Negotiations</u>

At that meeting, the parties reviewed the key outstanding issues. The Chairman, viewing the discussion with a fresh perspective, issued his observations on the state of discussions and sketched out a way to proceed. His proposal set forth guidelines that called for a January 1, 1995 deadline for eliminating subsidy programs. It included substantive proposals on several key issues, such as the injurious pricing mechanism, and set forth a schedule of working sessions beginning as early as July on specific issues with a view to concluding an agreement later this

year.

The parties have been asked to refer the proposed approach to their capitals and to indicate by July 8 whether or not they can accept the Chairman's proposal as a basis for resuming negotiations. For our part, we applaud the Chairman's efforts and are prepared to resume negotiations on the basis of the approach he has set forth--assuming that the other participants are also willing to do so without any further qualifications or interpretations. We look forward to hearing from the other parties on July 8. If other parties also accept the proposal, it will reflect a significant forward movement on points that have been divisive in the past and will, we believe, give us some reasonable hope of quickly concluding the negotiations.

Working Group Study

In response to a Congressional directive contained in the Defense authorization bill, the Administration has assembled an interagency working group to study the U.S. shipbuilding industry. Congress has requested this study for the purpose of "developing and implementing a comprehensive plan to enable and ensure that domestic shipyards can compete effectively in international shipbuilding market." The National Economic Council (NEC) is coordinating the analysis of this industry and contemplates completing the report and submitting its recommendations by October of this year. The NEC working group is aware of the impact of foreign subsidies on the world market and how they hinder the prospects for U.S. industry participation in that market. Consequently, the NEC working group is also aware of the importance of eliminating subsidies through an international agreement. Accordingly, the NEC will seek to ensure that the recommendations contained in its report will not undercut the widely accepted objective of achieving a multilateral agreement to eliminate subsidies.

HR 1402

I know that you are also interested in the Administration's views on HR 1402 which you introduced to impress on other countries the importance of eliminating their subsidies to their shipbuilding industries. While we hope to conclude an agreement this year, and would consider the proposed legislation unnecessary should that occur, we recognize that an agreement may not be concluded. For that reason, we understand the importance you place on a legislative remedy.

We share the same objective, namely elimination of shipbuilding subsidies and other distortive practices, and are aware of the possibility that an agreement might still elude us. Consequently, we are prepared to work with Congress to develop remedies for the trade policy problems faced by our shipbuilding industry in ways that would support the long-term objective of eliminating subsidies. We do have concerns about several aspects of the bill on which we believe we need to work with you so as to ensure that the legislation will not work at cross purposes with our common objective and would be consistent with our overall trade policy and our international obligations.

Some of the areas where we think significant changes are required include the following:

- Investigations should be complaint-driven, i.e., they should be initiated by those who can demonstrate the existence of foreign subsidies or other distortive practices and are affected by them;

- Inclusion of an adverse effects test, whereby a sanction would be applied only where it is determined that injury to

U.S. shipbuilders or shipping interests results from the practices being investigated; and

- Administrative discretion, so that investigations and sanctions would not be required to be administered in ways that are disproportionate to the subsidies involved or not in the national interest.

- The cargo diversion remedy would pose administrative problems and might be challenged in the GATT.

- The provision subjecting ships to AD/CVD remedies poses significant administrative, technical and legal difficulties.

We look forward to working closely with you and your staff on these and other detailed changes that may be beneficial. Thank you Mr. Chairman. I would be happy to answer any questions that you or other members of the committee may have.

Chairman GIBBONS. Thank you, Mr. Yerxa.

One of the things that concerns me is, why are we negotiating in OECD rather than in the GATT on this?

Ambassador YERXA. Well, I will ask Mr. Phillips to comment. I have a few observations, having spent some time in the GATT, that difficulty of obtaining a consensus among so many parties in the GATT and the way the GATT consensus system operates would, I think, pose significant difficulties.

But also the fact that the OECD has done a lot of work on shipbuilding and does have a framework agreement that gives us a basis for working on subsidies. But maybe I should ask Mr. Phillips if he has any further comment.

Mr. PHILLIPS. I think that is basically the reason. There was a working group already established in the OECD on shipbuilding and that included all of the major shipbuilding nations of the world. It is a fairly small universe as compared to the GATT, so we felt it would be more efficient to try to proceed in that forum.

Chairman GIBBONS. My next question is, then, why don't we deal with Europe as a community rather than as—or do we deal with Europe as a community or are we dealing with Europe as a group of individual nations?

Mr. PHILLIPS. We are dealing with them as a community. The member states are represented in the plenary, but they act as a unit and are represented by the commission.

Chairman GIBBONS. So we are dealing with them as a community?

Mr. PHILLIPS. Yes.

Chairman GIBBONS. As you know, there are vast differences in that community. I met with the community this weekend, and I found that some of them were in favor of getting rid of shipbuilding subsidies; some were saying we cannot afford them any longer and we better think about seriously getting rid of them; and some deny they even have any, but all of them say these are only transition problems; we are moving away from subsidies, we have a few transitions; that we expect to be out of the subsidy business within a couple of years.

That was not universally acclaimed at our meeting, but it was the substance of what I got out of the group discussion.

Do you have any comment, Mr. Yerxa, Mr. Phillips, on that?

Ambassador YERXA. Well, Mr. Chairman, it does seem to us that there is strong support within the European Community for an agreement. There have been real difficulties over what kind of a timetable we can work out for the phaseout and certain other aspects of the agreement, injurious pricing discipline and other points, but I think you are absolutely right, that there is a mood of change inside the community.

They recognize that they cannot maintain subsidies indefinitely, and the community as an institution, I think, has been perhaps moving faster than some of the member states in this direction. So we are not discouraged by the attitude they have been taking.

Of course, it is easy to state an overall objective of getting rid of them, it is much, much more difficult to get internal agreement within the community as to the precise procedure for doing so. And

this is a problem we have had not only in shipbuilding, but in the multilateral steel agreement negotiations, for example.

But I think you are right, the community is prepared to enter into that kind of discipline if we can work out the terms.

Chairman GIBBONS. Well, I look forward to working with you on this, and I want to clearly state my intention that if we get a good subsidy agreement on shipbuilding and this legislation will excuse anyone who is a party to that agreement from any of the strictures of the legislation, and I think it is important that we proceed, I will attempt to move this bill on through Congress.

I have, out of respect for the administration and its desire to get organized and getting to function this year, I have not pushed it so far, but I intend to move it ahead and I am sure Senator Breaux feels the same way. And perhaps we may lay this on your steps as a bill to either sign or veto and to carry out.

I think there is support in Congress. We passed this bill fairly easily last year a couple of times and I am sure we can pass it again.

Mr. McNulty, would you like to inquire?

Mr. MCNULTY. No thank you, Mr. Chairman.

Chairman GIBBONS. Yes, Mr. Yerxa.

Ambassador YERXA. One other point, Mr. Chairman. I did mention the administration has assembled an interagency working group to study the shipbuilding industry, and this is pursuant to a congressional request for this study for the purpose of developing and implementing a comprehensive plan to ensure that domestic shipyards can compete effectively, and we do have, as I said, an interagency working group coordinated by the National Economic Council.

We would hope to be completing the report and submitting recommendations by October. Don't hold me to the precise date, Mr. Chairman, but we are certainly working on this issue intensively within the administration.

Chairman GIBBONS. I appreciate that. I am aware of the legislation that has been introduced. I realize you probably don't have a position on all those pieces yet, but as a practical matter, I don't see this Congress or any foreseeable Congress getting back in the subsidy business. We cannot afford it. We don't have the money and there is just, as I listen to Members on the floor, there is just no real sentiment to get back into the subsidy business in shipping or shipbuilding.

So I think that we are going to be driven by a marketplace type of economy in shipbuilding and ship operation rather than subsidies and semisubsidies that we have had over the past, it looks like to me.

Thank you all very much.

Ambassador YERXA. Thank you, Mr. Chairman.

Chairman GIBBONS. Our next witness is from the Shipbuilders Council of America, Mr. John Stocker, president of that association.

STATEMENT OF JOHN J. STOCKER, PRESIDENT, SHIPBUILDERS COUNCIL OF AMERICA

Mr. STOCKER. Mr. Chairman, thank you very much. Members of the subcommittee, my name is John J. Stocker, I am president of

the Shipbuilders Council of America, the national trade association representing American shipyards, marine equipment suppliers, and naval architects.

Mr. Chairman, we appreciate this opportunity to express our industry's strong support of the Shipbuilding Trade Reform Act of 1993, H.R. 1402. The enactment of this bill is a critical ingredient to the survival of the American shipbuilding industry and 180,000 American shipyard and shipyard supplier jobs.

First of all, Mr. Chairman, I want to convey our industry's deep appreciation of your tireless efforts to bring an end to the foreign shipbuilding and repair subsidies that are threatening to destroy American shipyards and leave our country without a domestic shipbuilding capability.

Your commitment to this cause has never wavered, despite intense pressure from those who don't have the same interest that you do in ensuring there is fair market access for American yards and that we have a fighting chance to survive the decline in military spending that will be occurring over the next 4 or 5 years.

Mr. Chairman, I know that you know that it has been 4 years since the council filed a 301 petition with the U.S. Trade Representative's Office and over a year since the international trade negotiations responding to that petition collapsed. We want to publicly thank the efforts of the U.S. Trade Representative and other agencies of the U.S. Government that have attempted to bring a note of rationality to the international shipbuilding market, but, unfortunately, their efforts to achieve a solution to this problem at the multilateral level have failed, and I think you heard expressed this morning some concern about the prospect for future success.

During this time period, of course, while others have dragged out the negotiations, recognizing that there would be an economic impact on U.S. yards, the situation in the United States has gotten steadily worse. We are facing significant downturn in the defense budget with the downsizing of the naval fleet and, frankly, by 1988, Mr. Chairman, if we don't find a solution to this problem, we will lose 75 percent of our capability to build ships in the United States. We will put another 150,000 people on the street, on the unemployment lines, and, of course, this is the aim and the intent of our colleagues in the international arena in Japan, Korea, and the European Community.

As you know, Mr. Chairman, the U.S. shipbuilding industry has gone without subsidies since 1981, when we unilaterally terminated our program in the construction differential subsidy area. Unfortunately, the timing of that unilateral coordination couldn't have been worse because the economic situation in the international market was entering a very depressed period. And while we terminated our program, others began increasing theirs. And, in fact, we saw active government intervention in the marketplace to encourage the dumping of ships.

And, as you know, we have presented data to both this committee and the administration that shows that at one point in the mid 1980s, only 50 percent of the production cost was being covered by the prices.

As you know, Mr. Chairman, shipbuilding interests in other countries represent powerful political entities. Currently, foreign

shipbuilders are intensifying their political pressure on their governments to continue to receive subsidies. In fact, during the debate at the end of last year within the European Community, the governments of France and Italy both argued for increasing the subsidy level to 18 percent, and fortunately, the Commission was able to hold the line at a 9 percent ceiling, but this indicates, I think to you, that these countries are not serious about achieving an agreement with the United States.

Today, we have issued a report, which is included with my testimony, Mr. Chairman, that shows that the top six subsidizing nations in the OECD are budgeting over $9 billion annually to help out their shipyards and we have identified the types and kinds of practices that these countries engage in and where those budget amounts, in fact, can be found.

What we have concluded, Mr. Chairman, is that our trading partners will hold on tightly to their subsidies unless they have a strong enough incentive to discontinue them. We believe the goal of H.R. 1402 is to provide that incentive, by tying the discontinuation of their subsidy practices and dumping practices to U.S. market access.

Let me address the legislation specifically, Mr. Chairman. Currently, as you know, shipbuilding manufacturers represent the only, and let me emphasize the only, American industry which cannot seek redress for unfair trade practices under U.S. antidumping/countervailing duty laws. Every other American industry, from automobiles to airplanes to electronics to steel, are covered under these laws. Title I of H.R. 1402 amends our antidumping and countervailing duty laws to make them applicable to ships.

I cannot emphasize enough the harm that has come to the U.S. shipbuilding industry because of the discriminatory unfair exclusion of our industry from our domestic trade laws. International ship dumping practices, which were encouraged and supported throughout the 1980s, helped to destroy commercial ship construction in the United States.

South Korea was the primary instigator of ship dumping practices. The government used its state bank to allow Korean yards to incur billions of dollars of debts while low-balling ship prices in order to capture market share. Japan followed Korea's lead, and that was followed by the European shipbuilding countries. And, Mr. Chairman, we continue to have concerns in this area because there is evidence that Korea is beginning to enter into ship dumping practices again.

Recently, the Government of Japan announced that it was intending to allow its shipyards to reform its consolidation cartel for the purposes of coping with downturn in world market conditions.

Unfortunately, our Government has tacitly encouraged this dumping practice rationalizing that cheap prices, no matter how they are achieved, are in the consumer's best interest, even if it meant destroying our industry. We should point out, however, that one of the good things that we saw coming out of the draft trade agreement that was being negotiated was an antidumping mechanism that would have been very effective on the international market.

And one of the things that we regret very much is that draft trade agreement did not realize a conclusion to the negotiations so that we could see that antidumping mechanism brought into play at the international level.

Mr. Chairman, title II of the bill gets at the specific shipbuilding and repair practices of foreign governments. I should point out the bill parallels the draft OECD agreement by generally adopting the OECD subsidy definitions and by including and enforcement mechanism. It is in the enforcement mechanism where the major differences lie between this year's bill and the bill passed by the House last year.

Last year, the bill would have penalized all ships built in subsidized foreign yards after the date of the bill's enactment, but by denying entry of an affected ship into U.S. ports until the subsidized portion of the ship's price was paid back to government that provided the subsidy or paid to the U.S. Government in the form of duty.

This approach was consistent with current U.S. trade laws, which allow for a duty to be placed on goods exported from countries that commit unfair trading practices, but the duty would have been levied only on the subsidized product itself—the ship. Payment of the duty would have been limited to the consumer who most directly benefited from the subsidy, which would have been the ship purchaser.

However, because of strenuous objections from American ship owners, a different approach was taken in this year's bill. In H.R. 1402, penalties would be applied towards ships domiciled or registered in or owned by citizens of countries that refuse to terminate their subsidy practices. In this case, the action would be taken against the national flag carriers of the subsidizing countries who are the citizens of that particular country.

In addition, we also, working with you and your staff, changed some of the sanctions provisions, such as placing a financial penalty of not more than $1 million per vessel per voyage, limiting the number of U.S. port calls for affected vessels or closing off U.S. ports to such vessels.

One of the other issues that came up in the consideration of the bill last year was a question of cargo diversion to Canada or Mexico as ship owners sought to avoid the actions of the U.S. Government. And to prevent that, this year's bill provides the Department of Commerce direct the U.S. Customs Service to deny United States entry of cargo that has been transported from Canadian or Mexican ports affected by U.S. legislation.

You will hear some comments today that this may be a potential violation of GATT. However, I should point out Article V does make an exception, quote, in cases of failure to comply with applicable Customs laws and regulations, unquote.

Mr. Chairman, of course we would prefer that this legislation not have to be considered at all. We share your belief that our international trading problems are best resolved through negotiation, but as you have said, there comes a time when it is contrary to our economic interests to wait any longer for negotiated settlements to materialize.

Let me add here, I think it is incredible the European community at last week's meeting of working party six in Paris was unable to bring their mandate to the table to support resumption of the negotiations when they knew full well that those negotiations would in fact be reinitiated if that was a result of last week's meeting.

So, clearly, to us, Mr. Chairman, we have reached the point where our trading partners have strongly indicated to us that they are uninterested in reaching an agreement with us on these questions.

Mr. Chairman, our own unsubsidized industry is on the brink of destruction. Our yards cannot fight foreign governments. Furthermore, unless our Government acts quickly, it will not only be American shipyards and American shipyard workers who will be affected, but all of those industries that supply components and material to our companies. And attached to my statement is a list of the thousand U.S. shipyard supplier companies who agree that they feel threatened by the existence of these foreign practices.

We believe we can succeed in an undistorted market. Unless we do something effectively, we are essentially telling 180,000 Americans that they have no future in American shipbuilding.

Now is the time for our Government to send a message to the world that we will no longer tolerate unfair trading practices that undercut our industry's ability to compete. What title II of the bill does is provide the impetus for giving our trading partners a strong incentive to agree to end their unfair practices once and for all.

Title I of the bill will give American shipbuilders, like all other American manufacturers, the ability under due process to petition its Government for the right to counteract unfair trade practices.

With that, Mr. Chairman, I would conclude my opening remarks.

I would like to add two additional points in light of the opening statement by Ambassador Yerxa. In commenting on the issue of 1402 and whether or not we get a multilateral agreement, Mr. Chairman, we believe that this bill needs to be considered even if an OECD agreement was reached tomorrow, because there are non-OECD members that are shipbuilding countries that need to be encouraged to sign up for such a trade discipline, particularly the People's Republic of China, Brazil, Croatia, and other countries like that.

However, I should point out we are encouraged by the administration's position on the bill and their strong indication to you that they are willing to work with you and the committee on devising an effective instrument to protect U.S. shipyards from the predatory practices of our colleagues overseas.

Thank you very much, Mr. Chairman.

[The prepared statement and attachments follow:]

Statement By John J. Stocker, President
Shipbuilders Council of America
Re: H.R. 1402, Shipbuilding Trade Reform Act of 1993
July 1, 1993

Mr. Chairman, Members of the Subcommittee, my name is John J. Stocker. I am President of the Shipbuilders Council of America, the national trade association representing American shipyards, marine equipment suppliers, and naval architects. A membership list is attached to my written testimony.

I appreciate this opportunity to express our industry's strong support of The Shipbuilding Trade Reform Act of 1993, H.R. 1402. The enactment of this important bill is a critical ingredient to the survival of the American shipbuilding industry and 180,000 American shipyard and shipyard supplier jobs.

First of all, Mr. Chairman, I want to convey our industry's deep appreciation of your tireless efforts to bring to an end the foreign shipbuilding and repair subsidies that are threatening to destroy America's shipyards and leave our country without a domestic shipbuilding capability. You have not just talked about the egregious subsidy practices which violate the principles and spirit of free trade in international shipbuilding, you have introduced specific legislation to combat them. And your commitment has never wavered, despite intense pressure from those who want to maintain the status quo on shipbuilding subsidy and ship dumping practices.

It has now been four years since the Shipbuilders Council of America filed a Section 301 petition with the United States Trade Representative, and over a year since the international trade negotiations responding to that petition collapsed. During this period, the situation for American yards has gotten steadily worse. With the significant downsizing of the naval fleet during the remainder of the 1990s, the U.S. shipbuilding industry is facing massive layoffs and yard closures. By 1998 there will be only one or two American yards left that can build big ships, unless the industry gains access to commercial ship construction contracts in the next couple of years. But this can only happen in a market that is undistorted by subsidies.

American shipyards are an integral part of our country's critical manufacturing industrial base. Ship construction represents one of the must difficult and complex manufacturing processes in the world, surpassing aircraft and missiles. Because it requires many kinds and levels of expertise, it provides work for every socio-economic segment in our society, including entry-level jobs for relatively unskilled urban workers, jobs for skilled industrial workers, and high-technology jobs for degreed engineers.

Furthermore, shipbuilding provides a market stimulus for more basic industries than aircraft or any other product. This is because a ship is a small floating city, requiring both large and small sizes of engines, generators, motors, pumps, valves, winches, and electrical control equipment, in addition to electrical cable, electronic navigation equipment, radios, and, of course, very large quantities of steel plate. This is why, for every job in an American shipyard, another three jobs are created. A modest shipbuilding program of 50 ships a year would produce approximately 100,000 American jobs in shipyards and shipyard supplier industries.

In other words, America's shipyards are good for the long-term economic well-being of the country, as well as essential for ensuring that the United States has the necessary domestic shipbuilding skills and facilities available to meet our country's defense requirements as they arise.

The U.S. shipbuilding industry has gone without subsidies since 1981, when the U.S. government unilaterally ended the Construction Differential Subsidy (CDS) program for U.S.-flag ships built in U.S. yards. Unfortunately, the timing could not have been worse. International commercial shipbuilding was in the blackest market depression in history, and the governments in all shipbuilding countries except the United States were escalating aid programs for their yards.

By propping up their shipbuilding industries in the 1980s through subsidies and other means, foreign governments not only drove unsubsidized U.S. yards out of the commercial shipbuilding, they encouraged the dumping of ships on an unprecedented scale. At the lowest point, Asian and European shipyards were barely covering half their production costs.

The working group on shipbuilding in the Organization for Economic Cooperation and Development, known as the OECD, recognized the anti-competitive, market-distorting effects of shipbuilding subsidies over ten years ago. In early 1983, 14 OECD nations signed a document in which they agreed not to introduce any new shipbuilding subsidies and to gradually eliminate the ones they already had. However, because the agreement did not include an enforcement mechanism, it was largely ignored.

A new draft agreement resulting from the subsequent OECD negotiations begun in 1989 contained a stringent enforcement mechanism. It also contained an antidumping provision. This agreement was never signed. In April 1992, the European Community, Japan, and South Korea scuttled the talks. The United States Government had underestimated the resistance of the European Community to giving up their shipbuilding subsidies and the insistence of the Japanese and South Koreans to retain ship dumping rights. Moreover, the

U.S. Government had underestimated its own lack of muscle in the negotiations, because it had given away its bargaining chit through the unilateral termination of its commercial shipbuilding subsidy program in 1981.

There is another factor which is reinforcing the determination of the European Community, Japan, and South Korea to hold on to their subsidies: the current sluggish market. When the OECD talks began in 1989, the international shipbuilding market had emerged from the decade-long depression. New ship orders were increasing significantly and prices were rising sharply. Most market analysts were forecasting a shipbuilding boom from that point on until the early 2000s.

As it has turned out, those market predictions were overly optimistic. Instead of continuing to move rapidly upward, the market has remained relatively sluggish, due to the prolonged economic recession, continuing low freight rates, and other problems. Nevertheless, the need to replace the aging and deteriorating ships of the world's merchant fleet remains. There will be an upswing in replacement ship orders, but not until the second half of the 1990s. It is critical to the future of the American shipbuilding industrial base that our yards be able to compete for contracts in this market without the intervention of foreign governments and their market-distorting subsidies.

The seriousness of these subsidy practices is best illustrated by a current case involving an American shipping company, American President Lines, and shipyards located in Germany and Korea. This transaction involving the construction of 12 container ships is typical of the kinds of distortions that are undertaken in the marketplace that affects, not only the domestic market, but the export market, as well.

Our information is that a contract was signed between APL and HDW in Germany and Daewoo in Korea for the ship construction. The initial contract is for four vessels; two to be built at HDW and two to be built at Daewoo. Reportedly, the contract price for these ships is DM153.3 million per ship. In dollars terms, this equates to about $100 million per ship. However, recent studies by the European Economic Community indicate that the German shipyard costs, without subsidy, would equal approximately $140 million. Thus, the subsidy support being provided by the German Government and the guarantees of financial solvency being underwritten by the state of Schleswig-Holstein equals 40%.

This subsidy case is particularly important in that APL has been vigorously lobbying the U.S. Government for the right to buy ships built with foreign subsidies from overseas yards and to obtain funding from the U.S. Government for another 15 years to operate the ships under the U.S. flag. U.S.-flag ships must be owned and operated by U.S. citizens. To receive operating differential subsidies (ODS) from the government, they must also be U.S. built. Since the start of the ODS program, APL has received $1.5 billion from U.S. taxpayers, in addition to $77.6 million scheduled for fiscal year 1993 payouts.

Last fall [1992], APL solicited bids from U.S. yards for the new containerships, but gave them only 17 days to respond, an unrealistic timeframe that indicated the solicitation was only perfunctory and not serious. It is now clear that APL planned to get a subsidized contract from HDW all along, and has been maneuvering to obtain eligibility for operating subsidies from the U.S. Government for these ships, just like it was able to do in the late 1980s for five ships of the same design.

At that time, APL ordered five containerships from German yards, with the German Government paying half the ships' contract price out of a combination of German defense funds, money funneled through a state-owned steel mill, and direct cash. In addition to the German subsidy, millions of dollars have been paid in subsidies by the U.S. Government in the operation of these ships, which were given a special exemption from the U.S.-build requirement.

Shipbuilding interests represent powerful political entities in the top shipbuilding subsidizing nations. Currently, foreign shipbuilders are intensifying political pressure on their governments to continue to receive subsidies. The Shipbuilders Council of America has just released a report which states that the top six subsidizing nations in the OECD are budgeting over **$9 billion** on average each year to help out their shipyards. Of the total amount, South Korea accounts for $2.4 billion, Germany for $2.3 billion, Japan for $1.9 billion, Italy for $940 million, Spain for $897 million, and France for $643 million.

These shipbuilding aid budget figures include, where known, loans and subsidized interest for ships built in the yards of the subsidizing countries; cash grants to shipyards paid as a percentage of the ship construction contract price; cash for shipyard operations, modernization, and rationalization; and ship and shipbuilding-related research and development. What the figures do <u>not</u> include are the subsidy values of government guarantees and tax benefits, or the full amounts of ship construction and shipyard loans and research and development aid. In other words, the true value of shipbuilding aid in the six OECD countries is significantly higher than $9 billion.

What we must conclude is that our trading partners will hold on tightly to their shipbuilding and repair subsidies unless they have a strong enough incentive to discontinue them. The goal of H.R. 1402 is to provide that incentive by tying the discontinuation of shipbuilding subsidies and ship dumping practices to U.S. market access.

Mr. Chairman, your previous bill to reform shipbuilding and repair subsidy practices had the enthusiastic support of U.S. shipyard management, labor, and companies that manufacture and supply machinery, equipment, and raw materials to the shipyards. That bill, H.R. 2056, was approved by the Ways and Means Committee, the Merchant Marine and Fisheries Committee, and ultimately by the House of Representatives on a vote of 339 to 78. Unfortunately, the bill was stalled in the Senate.

Mr. Chairman, I tell you today that we support H.R. 1402 as strongly as we supported H.R. 2056. I have attached to my written testimony a list of over 200 companies across the country who have joined 21 labor unions in endorsing this bill. Furthermore, we are confident that the current Administration is much more amenable to the legislation than the last Administration was.

Currently, shipbuilding manufacturers represent the only American industry which cannot seek redress for unfair trade practices under U.S. anti-dumping and countervailing duty (CVD) laws. Every other American industry--from automobiles to airplanes, from electronics to steel--are covered under these laws. Title 1 of H.R. 1402 amends U.S. anti-dumping and countervailing duty laws to make them applicable to ships.

I cannot emphasize enough the harm that has come to the U.S. shipbuilding base because of the fundamentally discriminatory and unfair exclusion of our industry from U.S. anti-dumping and CVD laws. International ship dumping practices, which were encouraged and supported by the massive shipbuilding subsidy programs of foreign governments throughout the 1980s, helped to destroy commercial ship construction in the United States. South Korea was the primary instigator of ship dumping practices. That government used its state bank to allow Korean yards to incur billions of dollars of debt while lowballing ship prices in order to capture market share. Japan followed South Korea's lead, then the European shipbuilding countries.

Unfortunately, even our own government tacitly approved the practice of ship dumping and foreign shipbuilding subsidies, rationalizing that cheap prices, no matter how they were achieved, were in the consumer's best interest. Our country's legacy today from that short-sighted vision--which was applied to other American manufacturing sectors as well--includes a huge trade imbalance, the destruction of many American businesses, and the export of American jobs.

International ship dumping practices ameliorated in the early 1990s, but they continue as a threat whenever a foreign producer wants to undercut its competitors. That is why the aborted draft OECD agreement included an antidumping mechanism. U.S. shipowners are adamantly opposed to anti-dumping and CVD mechanisms--whether part of an international agreement or included in U.S. legislation--for the simple reason that they want cheap ships. We understand that some ship owners have gone so far as to hire lawyers to make a case for barring airplanes from current U.S. antidumping and CVD laws, thereby putting shipowners at odds with the American aerospace industry, which has always interpreted the law to cover airplanes.

It is interesting to noted that while some American shipowners oppose anti-dumping and countervailing duty applications for American shipbuilders, the services they provide are protected under unfair foreign competition industry-specific laws under the Foreign Shipping Practices Act of 1988. This act, which is based on the Merchant Marine Act of 1920 and is administered by the Federal Maritime Commission, permits the imposition of fines and closure of U.S. ports to vessels of carriers benefiting from practices that adversely affect the operations of domestic carriers in U.S. oceanborne trade.
Title 2 of H.R. 1402 gets at the specific shipbuilding and repair subsidy practices of foreign governments. Here, too, the bill parallels the draft OECD agreement by generally adopting the OECD's subsidy definitions and by including an enforcement mechanism. The enforcement mechanism in H.R. 1402 is tailored along the lines of the U.S. Foreign Shipping Practices Act.

It is in the enforcement mechanism wherein the major differences between last year's bill and this year's bill lie. H.R. 2056--last year's bill--would have penalized all ships built in subsidized foreign yards after the date of the bill's enactment by denying entry of an affected ship to U.S. ports until the subsidized portion of the ship's price was paid back to the government that provided the subsidy, or paid to the U.S. Government in the form of a duty. This approach was consistent with current U.S. trade laws which allow for a duty to be placed on goods exported from countries that commit unfair trading practices, but the duty would have been levied only on the subsidized product itself, the ship. Payment of the duty would have been limited to the consumer who would most directly benefit from the subsidy, the ship purchaser.

However, because of the strenuous objections from American shipowners, a different approach was taken in this year's bill. In H.R. 1402, penalties would be applied against ships domiciled or registered in, or owned

by citizens of, countries that refuse to terminate their shipbuilding and repair subsidies. The penalty options are those which are contained in the U.S. Foreign Shipping Practices Act, such as placing a financial penalty of not more than $1 million per vessel per voyage, limiting the number of U.S. port calls for affected vessels, or closing off U.S. ports to such vessels.

As I stated before, these provisions have been part of U.S. law to combat unfair foreign shipping practices for years. They have been extremely effective, and they have not cost U.S. ports any business. Foreign shippers targeted by the FMC for unfair trading practices have stopped the practices rather than divert cargo from U.S. ports to Canadian or Mexican ports.

There is no reason to believe that applying these same provisions to stop shipbuilding subsidies will result in port diversion, simply because it would not make economic sense to switch to Canadian or Mexican ports merely to avoid the U.S. anti-subsidy legislation. If it is more cost-effective to use U.S. ports now, enactment of The Shipbuilding Trade Reform Act will not change that.

Determining the most cost-effective port involves not only the type and capacity of port facilities to handle the cargo--all ports are not alike--but the land transportation links from the port to the customer. Remember, only 20 percent of a carrier's cost are involved in seaborne transportation; 80 percent of the cost comes from what happens to the goods on land.

Nevertheless, to prevent any possibility of cargo diversion from U.S. ports, and to specifically address the stated concerns of some ports last year, H.R. 1402 provides that the Department of Commerce direct the U.S. Customs Service to deny U.S. entry of cargo that has been transported from Canadian or Mexican ports on ships affected by the legislation. Some concerns have been raised as to whether such a provision would be in violation of Article V of the GATT (General Agreement on Tariffs and Trade), which requires goods in transit to move freely through the territory of a party. However, Article V makes an exception in "cases of failure to comply with applicable customs laws and regulations." The authority of the Customs Service to deny entry of cargo into the United States was established under the Foreign Shipping Practices Act, and no complaint has ever been filed, or even raised, with the GATT.

Mr. Chairman, of course we would all prefer that this legislation was not necessary. We share your belief that our international trading problems are best resolved through the negotiation of international trade agreements. But as you have said, there comes a time when it is contrary to our economic interests to wait any longer for negotiated settlements to materialize. Clearly, that point has been reached in the matter of foreign shipbuilding and repair subsidies.

Our unsubsidized industry is on the brink of destruction. Our yards cannot fight foreign governments. Furthermore, unless our government acts quickly, it will not only be American shipyards and American shipyard workers who will be affected, but also the country's steel mills, marine equipment manufacturing plants, and the more than 1,000 other U.S. shipyard supplier industries. By 1998 we will have another 180,000 Americans in the unemployment lines unless something is done now to enable American shipyards to re-enter the commercial market--a market undistorted by subsidies.

Now is the time for our government send a message to the world that the United States will no longer tolerate unfair trading practices in the shipbuilding sector that undercut our industry's ability to compete. What Title 2 of H.R. 1402 does is provides the impetus for giving our trading partners a strong incentive to agree to end their shipbuilding and repair subsidies once and for all. And Title 1 of the bill will give American shipbuilders--like all other American manufacturers--the trade tools to ensure that the trade agreements reached as a result of this legislation will be adhered to.

Shipbuilders Council of America

INTERNATIONAL SHIPBUILDING AID

Shipbuilding Aid Practices
of the Top OECD Subsidizing Nations
and Their Impact on U.S. Shipyards

June 1993

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EXECUTIVE SUMMARY

THIS UPDATED REPORT ON FOREIGN SHIPBUILDING SUBSIDY PRACTICES:

- IDENTIFIES the current top shipbuilding subsidizers in the Organization for Economic Cooperation and Development (OECD) and describes how much and what kind of government aid these nations are budgeting for their domestic commercial ship construction yards.

AVERAGE ANNUAL SHIPBUILDING AID BUDGETS OF TOP SUBSIDIZING OECD NATIONS SINCE 1988

Country	Ship Financing		Direct Yard Aid			R&D	Annual Average*
	Loans, Subsidized Interest	Guarantees	Contract Grants	Shipyard Capital*	Yard Loans, Interest Sub.		
S. KOREA	YES $1.8b	YES	Unknown	YES	YES $595m	YES	$2.4B
GERMANY	YES $1.5b	YES	YES $353m	YES $463m	YES Amt. unkwn	YES	$2.3B
JAPAN	YES $818m	YES	SOME	YES $85m	YES	YES $1b	$1.9B
ITALY	YES $557m	Unknown	YES $175m	YES $184m	Unknown	YES $24m	$940M
SPAIN	YES $306m	YES	YES $153.5m	YES $438.2m	YES	YES	$897M
FRANCE	YES $399m	YES	YES $149m	YES $83m	Unknown	YES $3m	$634M

**Excludes sums and subsidy values of government guarantees.*

- DELINEATES the specific shipbuilding aid practices of the six top subsidizing nations in the OECD in two to four-page summaries for each country.

- PROVIDES examples of shipbuilding aid actions in the six countries, such as:

  South Korea: A $750 million-plus government rescue package began in 1990 for the Daewoo shipyard, a $492 million ship design automation program was set up by the government in 1990, and a government-subsidized industrial park for ship machinery production to help Korean shipyards was announced in early 1993.

  Germany: A $4 billion subsidy package to modernize, restructure, and cover the losses of the shipyards in former East Germany was approved by the European Community in 1992. Most of the money goes to the western shipbuilding conglomerates of Bremer Vulkan and Kvaerner, who have taken over the largest yards in eastern Germany.

Japan: Government support of ship design and shipbuilding-related research and development has been escalating since 1989, currently amounting to over $1 billion annually. Major current programs: R&D for 21st century vessels, established in 1989; development of an environmentally-sensitive double hull tanker, announced in December 1990.

Italy: In January 1992, the Commission of The European Community approved $224 million in loss compensation granted by the Italian government to the state-owned shipbuilding conglomerate Fincantieri for 1990, plus an additional $27 million in restructuring aid.

Spain: The government routinely covers losses of the state-owned AESA shipbuilding conglomerate. In 1992, these losses amounted to $95 million.

France: The French government is subsidizing the entire 1993 orderbook of oceangoing ships (5 LNG tankers, 3 cruiseships) at the country's main yard, Chantiers de L'Atlantique. Total subsidy amounts are in dispute since the government refuses to confirm them. The estimated range is from a low of $303 million to a high of $438 million.

- CITES recent (1992/1993) specific subsidized contracts, such as:

  The three-containership contract between the Japanese shipyard Hitachi and China Ocean Shipping Co. (COSCO) subsidized by the Japanese government at 25.17%, with a 14-year soft loan (8-year grace period). . . . The five-containership contract between Spanish state-owned AESA shipbuilders and TMM of Mexico subsidized by the Spanish government at 27.5%, with a 30-year soft loan (14-year grace period) at 3.4% interest. . . . The cruise ship contract between state-owned Fincantieri shipbuilders and P&O Princess Cruises eligible for Italian government subsidies equivalent to 39%. . . . The two-containership contract between Bremer Vulkan's MTW yard and an Indonesian-flag company which will receive a 12-year loan from the German government at 4.25% interest, and is eligible for a subsidy up to 36% of the contract price.

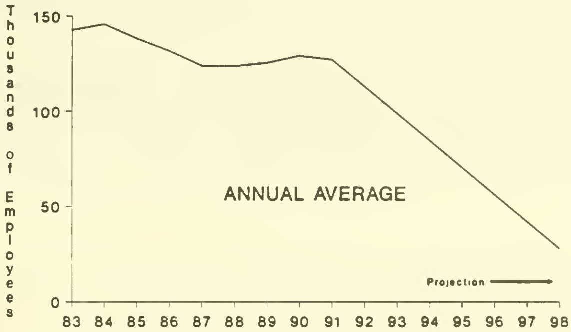
THIS REPORT DESCRIBES THE DEVASTATING IMPACT OF FOREIGN SHIPBUILDING SUBSIDIES ON U.S. INDUSTRY

- Before 1981, U.S. shipbuilders had a balanced and profitable workload of commercial and military ships. After 1981, however, the combined impact of escalated foreign shipbuilding subsidies, international ship dumping practices, the unilateral termination of the U.S. Construction Differential Subsidy program and the granting of "Section 615" waivers to U.S. shipowners devastated commercial shipbuilding in the United States and forced surviving U.S. yards to depend on the U.S. government as their sole source of business.

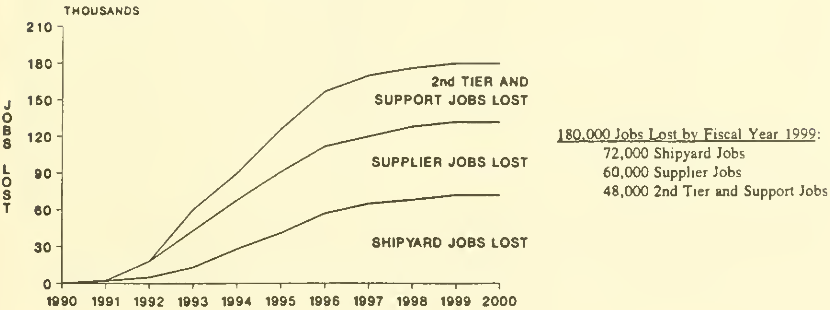
- Because of cuts in the U.S. defense budget and the severely reduced requirements for new Navy ships for the remainder of the 1990s, most of the country's private shipyards will have to close by 1998, unless there is a resurgence of commercial shipbuilding. But the transition to building commercial ships cannot be successful unless foreign shipbuilding subsidy practices are terminated.

- Unless the U.S. government is successful in convincing foreign governments to end their ship dumping and shipbuilding and repair subsidy practices, there will be only one or two major yards left in the country by 1998, and 180,000 Americans will lose their jobs in the U.S. shipyard and shipyard supplier industries.

DECLINE IN TOTAL EMPLOYMENT AT U.S. PRIVATE SHIPYARDS



TOTAL JOBS LOST FROM U.S. SHIPYARD/SHIPYARD SUPPLIER BASE, 1990-2000



THIS REPORT CONCLUDES THAT ONLY U.S. LEGISLATION CAN PROVIDE A STRONG ENOUGH INCENTIVE FOR OECD NATIONS TO AGREE TO END THEIR SHIPBUILDING AND REPAIR SUBSIDY PRACTICES

- The governments of 14 OECD countries ignored the document they signed in early 1983 in which they agreed not to introduce any new shipbuilding subsidies and to gradually eliminate their current ones. In April 1992, they walked away from nearly three years of international negotiations by refusing to sign a draft agreement to end their shipbuilding and ship repair subsidy practices.

- Shipbuilding interests represent powerful political entities in the top shipbuilding subsidizing nations in the OECD, and their desire to continue to receive government subsidies is having a dominant influence on the political will of their governments to end the subsidies. Because the U.S. government discontinued its one direct commercial shipbuilding subsidy program in 1981, it lost its bargaining chit in international negotiations. Only by tying the discontinuation of shipbuilding subsidies to entry to U.S. markets can the U.S. government apply sufficient pressure on its trading partners to stop their shipbuilding and ship repair subsidy practices. This is the goal of the current anti-subsidy legislation in the U.S. Congress, The Shipbuilding Trade Reform Act of 1993; H.R. 1402 in the House and S. 990 in the Senate.

BACKGROUND ON FOREIGN SHIPBUILDING SUBSIDIES

Massive Subsidization During the 1980s - During the 1980s, foreign subsidies increased to massive levels, in response to the worldwide shipbuilding depression that followed the oil crisis of the mid 1970s. Foreign governments competed against each other for the biggest shipyard subsidy budgets. The Japanese government created a cartel for its largest shipbuilders, bought up and closed unproductive facilities, funded shipbuilding production and technology improvements, provided soft loans for purchases of Japanese-built ships, and paid Japanese shipowners to scrap their old ships and build new ones in Japanese yards. The South Korean government used its bank to finance the buildup of Korean shipyards and keep them afloat while they lowballed prices, incurred losses, and accumulated billions of dollars worth of debt. European governments pumped money into their shipyard facilities and enticed customers to their yards with cash grants and soft financing.

Ship Dumping - In conjunction with massive subsidies, the governments of South Korea, Japan, and Europe propped up their shipyards by supporting below-cost ship production practices. The following table illustrates Japanese shipbuilding cost/price relationships from 1982 through 1989. It is important to note that the table does not reflect that portion of production costs borne by the Japanese government in underwriting modernization of shipyard facilities and improvements in shipbuilding production processes, as well as other subsidy practices.

JAPANESE SHIPBUILDING COST/PRICE RELATIONSHIPS

Year	% of Total Cost Covered by Price	% of Total Cost Not Covered by Price
1982	88.75%	11.25%
1983	77.50%	22.50%
1984	66.25%	33.75%
1985	55.00%	45.00%
1986	62.50%	37.50%
1987	70.00%	30.00%
1988	77.25%	22.75%
1989	84.50%	15.50%

From analysis of Joseph W. Cummiskey, submitted in a Masters Thesis submitted to the Naval Postgraduate School, Monterey, Calif., December 1990, and based on data from four studies: Jenks & Lorner, 1981; Jenks & Landsburg, 1985; Porter & Cho, 1985; Carson & Lamb, 1989 (with revised overhead estimates).

Japan's ship dumping practices followed the lead set by South Korea. In turn, European shipyards adopted dumping practices as part of their efforts to be competitive with South Korea and Japan. As stated by Drewry Shipping Consultants, European governments "allowed yards to run up substantial losses on newbuildings operations and have underwritten such losses." [World Shipbuilding Market: Prospects to 2000, November 1988] In 1990, for example, an audit of shipyards during 1989 in what was then West Germany showed that the largest yards produced merchant ships at prices averaging 26 percent below costs, before subsidies.

IMPACT OF FOREIGN SUBSIDIES ON U.S. YARDS

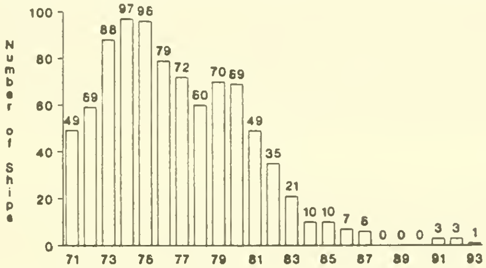
Overview - Before 1981, U.S. shipbuilders had a balanced and profitable workload of commercial and military ships. After 1981, however, the combined impact of escalated foreign shipbuilding subsidies, international ship dumping practices, the unilateral termination of the U.S. Construction-Differential Subsidy program and the granting of "Section 615" waivers to U.S. shipowners devastated commercial shipbuilding in the United States and forced surviving U.S. yards to depend on the U.S. government as their sole source of business.

Unilateral Termination of CDS - In 1981, as foreign shipbuilding subsidies were escalating, the U.S. government unilaterally terminated the commercial ship Construction-Differential Subsidy (CDS) in the United States. This program paid subsidies to U.S.-flag shipowners for having their ships built in the United States. Unlike the expansive shipyard subsidy programs of other shipbuilding nations, the U.S. program was tied to a relatively small domestic market and excluded the export market.

Section 615 Exemptions - Concurrent with the termination of CDS, the U.S. government implemented special legislation to encourage U.S. shipowners to bypass American shipyards and take advantage of foreign shipbuilding subsidies. This measure was embodied in an amendment to Section 615 of the Merchant Marine Act. It allowed U.S.-flag operators receiving operating-differential subsidy (ODS) payments from the U.S. government to buy from subsidized foreign yards during a temporary one-year "window" that subsequently was stretched to five years through the buying and selling of Section 615 rights approved by the Department of Transportation. Thus, the U.S. government succeeded in removing U.S. yards from the domestic commercial ship construction market. The Maritime Administration granted 50 Section 615 waivers. Of the 44 waivers which resulted in orders actually placed, 33 were for new construction and 9 were for conversions or retrofits. All but 3 of the 33 new ships ordered from foreign yards were built in the three countries that most heavily distorted the shipbuilding marketplace with subsidies during the 1980s: South Korea, Japan, and Germany. **The following table gives the details for 21 of the 33 Section 615 new construction ships built with subsidies overseas.**

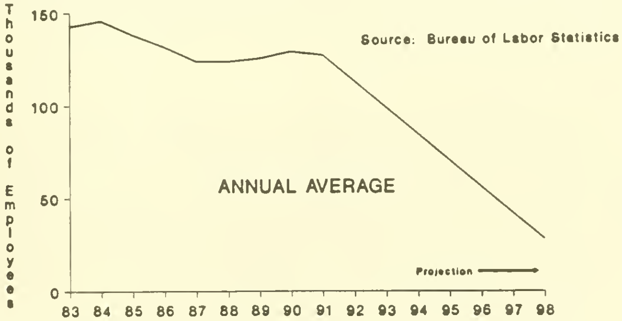
Owner/Ships	Country Yard	Dates	Price/ % Below Cost/ Subsidy	Real Cost
American Pres. Lines 3 C-10s; 4,340 teu *52,700, 54,600, 54,700 dwt*	Germany HDW	Contract: 10/86 Delivered: 4/88, 7/88, 9/88	*Price:* $61m (dm108.6m) ea *Below Cost:* At least 27%; 50% with 23% ($14m) subsidy	$ 83.6m +$14m sub.=$97.6m
American Pres. Lines 2 C-10s; 4,340 teu *54,600, 54,700 dwt*	Germany Bremer Vulkan	Contract: 11/86 Delivered: 7/88, 9/88	Price: $61m (dm108.6m) ea Below Cost: At least 22%; 45% with 23% ($14m) subsidy	$ 78m + $14m sub = $92m
U.S. Lines 12 containerships *4) 58,500 dwt* *7) 58,600 dwt* *1) 58,900 dwt*	S. Korea Daewoo	Contract: 4/21/83 Delivered: 6/84 -9/85	$55.75m ea At least 22.5% below cost.	$71.94m

NEW MERCHANT VESSELS UNDER CONSTRUCTION OR ON ORDER
AT U.S. PRIVATE SHIPYARDS (JAN. 1, EACH YEAR)

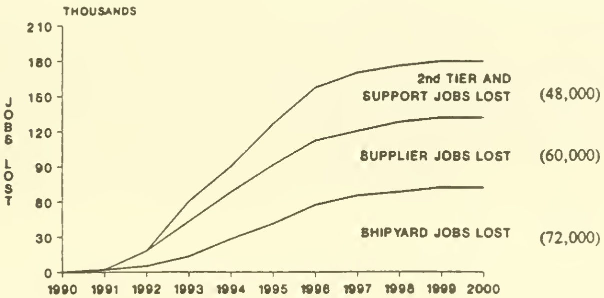


Future of U.S. yards - Unless foreign shipbuilding and ship repair subsidies are ended, the future of the U.S. shipbuilding industrial base is bleak. The significant downsizing of the naval fleet during the remainder of the 1990s means that the U.S. shipbuilding industry is facing massive layoffs and yard closures unless it can compete for commercial ship construction contracts in an unsubsidized market. At stake are 180,000 jobs, not only from U.S. yards but also from U.S. industries that supply the shipyards.

DECLINE IN TOTAL EMPLOYMENT AT U.S. PRIVATE SHIPYARDS



TOTAL JOBS LOST FROM U.S. SHIPYARD/SHIPYARD SUPPLIER BASE, 1990-2000



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TRADE NEGOTIATIONS TO END FOREIGN SHIPBUILDING SUBSIDIES

The 1983 OECD RGA - In the early 1980s, the international community was already recognizing the destabilizing effect shipbuilding subsidies were having on the marketplace. Consequently, the governments of 14 countries within the Organization for Economic Cooperation and Development (OECD) signed a document in which they agreed not to introduce any new shipbuilding subsidies and to gradually eliminate their current ones. Called the Revised General Arrangement (RGA), the agreement went into effect in early 1983. However, the agreement was generally ignored, largely because of the absence of an enforcement mechanism.

Instigation of New Subsidy Negotiations in 1989 - In June 1989, on behalf of the U.S. shipbuilding and repair industry, the Shipbuilders Council of America filed a petition under Section 301 of the U.S. Trade Act. In response, the U.S. Trade Representative agreed to initiate negotiations within the OECD, assuring U.S. shipbuilders that agreement could be reached among our trading partners within nine months. However, after three years of negotiations and several missed deadlines, there was still no agreement, and in April 1992, the negotiations collapsed.

The OECD Draft Agreement - The various drafts of the anti-subsidy agreement drawn up by the OECD's Working Party Six expanded upon the 1983 RGA. The last working draft was divided into four major sections: The Preamble and the Articles comprising the body of the text which outlined the agreement's thrust, scope, and procedures, including the dispute mechanism and enforcement provisions; Annex I, which described the types of direct and indirect subsidies to be phased out; Annex II, which provides the subsidy phase-out schedule; Annex III, which amended the antidumping code of the GATT to make it applicable to ships; and Annex IV, the detailed procedures for establishing the Dispute Panel to hear a complaint brought against a signatory of the document.

U.S. Trade Legislation - Subsequent to the collapse of the OECD negotiations, the House of Representatives in May 1992 passed, on a 339 to 78 vote, a bill to send a strong message to our trading partners that the foreign subsidies which are destroying the American shipbuilding and repair industry would no longer be tolerated. The bill was introduced by Sam Gibbons (D-Fla.), Chairman of the House Ways and Means Subcommittee on Trade. A well-known advocate of free-trade, Congressman Gibbons insisted that "subsidized trade is not free trade." Over 200 U.S. companies joined 21 labor unions in formally requesting Congress to approve the legislation. However, the bill was stalled in the Senate.

On March 18, 1993, Representative Gibbons and 22 co-sponsors introduced a new anti-shipbuilding subsidy bill in the House, H.R. 1402, The Shipbuilding Trade Reform Act of 1993. A similar bill, S. 990, was introduced in the Senate on May 19, 1993, by Senators John Breaux, Barbara Mikulski, Trent Lott, Majority Leader George Mitchell, and 17 other co-sponsors. The purpose of the bi-partisan bills in the House and the Senate are designed to discourage foreign shipbuilding and repair subsidies, and to provide remedies against foreign governments which refuse to terminate these unfair trade practices. Both bills provide for sanctions to be placed against ships owned or controlled by citizens of the subsidizing country or registered in the subsidizing country. The House bill has a provision to amend U.S. countervailing and antidumping duty laws to make them applicable to subsidized or dumped ships; the Senate version does not.

CONTINUING SHIPBUILDING SUBSIDY PRACTICES IN OECD NATIONS

Situation in 1989 - When the U.S. Trade Representative instigated the shipbuilding and repair subsidy negotiations in the summer of 1989, it appeared that the OECD nations might be amenable to signing an agreement to end their subsidy practices. After all, the decade-long market depression had ended. New ship orders during the spring quarter had increased by 67 percent over the same quarter in 1988. Significant reductions had been made in shipbuilding capacity so that the supply/demand ratio was in better balance, and the dramatic increase in ship prices reflected this. For example, the 1989 price of oil tankers 80,000 deadweight tons (dwt) and above averaged 127 percent more than their prices in 1985.

Most market analysts predicted a shipbuilding boom, lasting into the 2000s. Government attempts to secure market niches for their domestic yards began shifting away from cash grants and shipyard operating aid to government financing programs. However, after the negotiations had gone on for several months, the reluctance of the European Community (EC) to give up their subsidy practices and the Japanese and South Koreans to give up their right to dump ships became increasingly clear.

Situation When the OECD Talks Collapsed - By the time the Europeans and Asians walked away from the OECD talks in April 1992, another shift had taken place in market conditions. The 1988 and 1989 forecasters had been too optimistic. Although the need for replacement of the aging and deteriorating ships in the world fleet was clear, a prolonged economic recession, continuing low freight rates, and various market uncertainties combined to slow down the rate of new ship ordering. Forecasters put off the anticipated shipbuilding boom until the second half of the 1990s. Intense political pressure was--and continues to be--applied by foreign shipbuilders to keep their subsidies, particularly in France, Germany, Italy, and Spain.

As a result, governments in the EC, Japan, and South Korea have tried to divert attention away from the hundreds of commercial ship orders they have subsidized and are continuing to subsidize, and focus culpability on the U.S. Jones Act, the cabotage law under which four ships (a containership and three sulfur carriers) ordered for the domestic trades since 1988.

Conclusion - Shipbuilding interests represent powerful political entities in the top shipbuilding subsidizing nations in the OECD, and their desire to continue to receive government subsidies is having a dominant influence on the political will of their governments to end the subsidies. Because the U.S. government discontinued its one direct commercial shipbuilding subsidy program in 1981, it lost its bargaining chit in international negotiations. Only by tying the discontinuation of shipbuilding subsidies to entry to U.S. markets can the U.S. government apply sufficient pressure on its trading partners to stop their shipbuilding and ship repair subsidy practices. This is the goal of the anti-subsidy legislation in the U.S. Congress.

The Top OECD Subsidizers - The remainder of this report summarizes the current shipbuilding aid practices of the six top shipbuilding subsidizers in the OECD: South Korea, Germany, Japan, Spain, Italy, and France. The concentration on these countries in no way implies that the remaining European countries within the OECD do not subsidize their commercial shipyards. On the contrary, all of them provide shipbuilding-related aid to one degree or another.

AVERAGE ANNUAL SHIPBUILDING AID BUDGETS OF TOP SUBSIDIZING OECD NATIONS SINCE 1988

Country	Ship Financing		Direct Yard Aid			R&D	Annual Average*
	Loans, Subsidized Interest	Guarantees	Contract Grants	Shipyard Capital*	Yard Loans, Interest Sub.		
S. KOREA	YES $1.8b	YES	Unknown	YES	YES $595m	YES	$2.4B
GERMANY	YES $1.5b	YES	YES $353m	YES $463m	YES Amt. unkwn	YES	$2.3B
JAPAN	YES $818m	YES	SOME	YES $85m	YES	YES $1b	$1.9B
ITALY	YES $557m	Unknown	YES $175m	YES $184m	Unknown	YES $24m	$940M
SPAIN	YES $306m	YES	YES $153.5m	YES $438m	YES	YES	$897M
FRANCE	YES $399m	YES	YES $149m	YES $83m	Unknown	YES $3m	$634M

**Excludes sums and subsidy values of government guarantees.*

<u>Types of Foreign Shipbuilding Aid</u>

Ship Financing Aid. The governments of top shipbuilding countries in Asia and the European Community provide (1) loans for ships built in the yards of their respective countries, (2) varying levels of aid to subsidize interest on loans, and (3) loan guarantee and export credit insurance. OECD countries who signed the Understanding on Export Credits for ships are supposed to adhere to the limits stated in that document--currently, 80% loans at 8% interest with 8½ years for repayment--but many schemes have been utilized to get around the limitations. Furthermore, there are no limits on ship financing for a shipowner who resides in a country designated as an LDC (lesser-developed country).

Contract Grants. Outright grants to shipyards for a percentage of a ship's contract price. This type of subsidy is used extensively by the governments within the European Community.

Shipyard Modernization, Reorganization, and Investment Aid. This type of aid to shipyards encompasses a wide range, from capital infusions (used extensively in Germany and to a lesser extent in Japan), to government purchases of outmoded facilities (Japan), to loans, interest assistance, and guarantees (used in both Europe and Asian shipbuilding countries, particularly in South Korea and Germany).

Ship/Shipbuilding R&D Aid. The true magnitude of government aid for the research and development of ship designs and ship manufacturing technology is difficult to uncover since it is one of the least transparent categories. Germany, for example, does not report specific projects to the OECD, while Japan consistently under-reports by hundreds of millions of dollars what it actually budgets.

EXAMPLES OF 1992 AND 1993 SUBSIDIZED CONTRACTS

Date/Country	Contract Details	Subsidy Details	Comments
Jan. 1993 ITALY	1 cruise ship, SUN PRINCESS (77,000 gt) *Price:* $300 million *Yard:* Fincantieri *Customer:* P&O Princess Cruises, Los Angeles	Subsidy: $117 mil. 9% contract subsidy 30% Italian flag subsidy	
Jan. 1993 ITALY	1 cruise ship (95,000 gt) *Price:* $400+ million *Yard:* Fincantieri *Customer:* Carnival Cruise Lines, Miami	Subsidy: $36 mil. + 9% contract subsidy	Sources at the yard put the real price of the ship at $550 mil., counting the contract subsidy and creative financing pckg.
Jan. 1993 FRANCE	2 cruise ships, option for 3rd *Price:* Approx. $333 mil. ea., $1 bil. for 3 *Yard:* Chantiers de l'Atlantique *Customer:* Royal Caribbean Cruise Lines, Miami	Subsidy: $90m+ ($30m ea) 9% contract subsidy (+ subsidy associated with financing package)	
Feb. 1993 GERMANY	2 containerships (1,066 teu) *Price:* Unknown *Yard:* Bremer Vulkan-MTW, Wismar *Customer:* Indonesian shipping	Subsidy: Not revealed, but eligible for 36% contract aid. Soft Loan: 85%, 12-years, at 4.25% interest	2/93 is date of EC Commission approval, despite objections of 2 European countries and shipbuilding groups.
Feb. 1993 SPAIN	10 multipurpose cargo vessels (6,500 dwt) *Price:* Unknown *Yards:* Santo Domingo (4), Vulcano (3), Freire (3) *Customer:* Nordane Shipping, Denmark	Soft Loan: Interest rate subsidy not revealed but estimated at 5 points, equivalent to 18% subsidy.	Subsidized financing arranged by Galician regional govt. through the centralized Official Credit Institute to get around the federal govt's decision to discontinue soft loans.
Jan. 1992 JAPAN	3 containerships (3,800 teu) *Price:* $375 mil., $125 mil. each *Yard:* Hitachi Zosen *Customer:* COSCO, China	Subsidy: $94.4m ($31.5m ea) 25.17% contract subsidy Soft loan: 89%, over 14 yrs., 8 yrs. grace, at 6% interest.	Subsidy provided to match German aid for COSCO ships, subsequently EC-disapproved.
Jan. 1992 FRANCE	1 roll-on/roll-off (ro-ro) vessel *Price:* $120.5 mil. *Yard:* Ateliers et Chantiers du Havre *Customer:* Undisclosed	Subsidy: $15.7m-$35.7m 13%-30%, see comments.	13% subsidy if France stayed within EC guidelines, but some reports claimed a 30% subsidy was granted to meet the Finnish competition.
Nov. 1992 GERMANY	4 containerships (3,765 teu) *Price:* $455.7 mil. ($114 mil. ea) *Yards:* Bremer Vulkan (3), HDW (1) *Customer:* COSCO, China	Subsidy: $43.3m ($14.4m ea) 9.5% contract subsidy (Govt. financing through KfW)	Original contract involving a 36% subsidy was disapproved by the EC.
Jan. 1992 SPAIN	5 containerships (36,500 dwt) *Price:* $380 mil ($76 mil ea) *Yard:* Astilleros Espanoles (AESA) *Customer:* TMM, Mexico	Subsidy: $104.5m ($20.9m ea) 27.5% contract subsidy Soft loan: 30 years, 14 yrs grace, 3.4% interest	The original deal was signed 1/92 with 5th ship added 3/92.

SUMMARY OF SHIPBUILDING AID PRACTICES IN:

FRANCE

GERMANY

ITALY

JAPAN

SOUTH KOREA

SPAIN

SHIPBUILDING SUBSIDIES: FRANCE

AVERAGE ANNUAL SHIPBUILDING AID BUDGET SINCE 1988 IN FRANCE

Ship Financing		Direct Yard Aid			R&D	**Annual Average
*Loans, Subsidized Interest	Guarantees	Contract Grants	Reorganization Aid	Yard Loans, Interest Sub.		
YES $399m	YES	YES $149m	YES $83m	Unknown	YES $3m	$634M

** Does not include loans for ships built for owners in lesser-developed countries.*
*** Excludes sums, subsidy value of government guarantees.*

DESCRIPTION OF SHIPYARD AID

- Ship Financing

Export Ship Financing and Guarantees - The French government provides loans for export ships at no less than 7.5% interest plus risk factor points to bring the rate into conformity with the terms of the OECD Understanding on Export Credits for Ships. In addition, the government provides loan guarantees in the form of export credit insurance.

Domestic Ship Financing - The Ministry for Maritime Affairs administers investment aid (grants) for the French merchant fleet up to 15 percent of the purchase price. Although the ships are not required to be built in France, it is not known if any vessels built outside of France have received the aid. In addition, the government is paying interest subsidies incurred before 1986 to domestic shipowners that ordered vessels built at French yards.

- Direct Yard Aid

The French government's budgetary allocations for its domestic shipbuilding industry can be used as ship production aid tied to specific contracts (contract grants) or as shipyard restructuring aid (shipyard capital).

Contract Grants - The French government may provide grants to French shipyards to enable them to win contracts up to the maximum level set by the Commission of the European Community. That ceiling was set at 28 percent for 1987-88, 26 percent for 1989, 20 percent for 1990, 13 percent for 1991, and 9 percent since 1992, with extensions granted so far through 1994. The government usually refuses to disclose specific subsidy amounts paid on individual contracts. (Fishing vessels are not subject to these ceilings.) As with other EC countries, aid paid to a French yard on a contract with a shipowner from a lesser developed country has no mandated ceiling.

Contract Grants for Chantiers de L'Atlantique. The primary recipient of French contract subsidies is Chantiers de L'Atlantique, the country's largest shipyard. Located in St. Nazaire, the yard is a wholly-owned subsidiary of GEC Alsthom, the French arm of a corporation formed by the merger of Alsthom Atlantique with the British company GEC in April 1990. GEC Alsthom, in turn, is 50 percent owned by the General Electric Company in Great Britain.

With the help of the French government, Chantiers de L'Atlantique has targeted the cruise ship and liquified natural gas (LNG) tanker construction markets in particular. "It is politically unacceptable for the yard to lose orders through the government's lack of subsidy, however strapped for cash Paris may be," ***Fairplay*** Magazine said in its June 6, 1991, issue. That statement holds true today. All of the ships listed in the yard's current orderbook are subsidized cruise ships and LNG tankers. In addition, in 1992 Chantiers de L'Atlantique delivered the first cruise ships of the two-ship subsidized order for Kloster Cruise, and two ships for Royal Caribbean Cruise Lines--part of a subsidized four-ship order.

SHIPS ON ORDER AT CHANTIERS DE L'ATLANTIQUE AS OF JANUARY 1, 1993

Dates	Contract Details	Subsidies	Comments
Ordered: 2/91 Delivery dates: 4/94, 10/94, 6/95, 6/96, 6/97	5 LNG tankers, 130,000 m^3 *Price:* $1.3 bil, $260 mil ea *Customer:* Petronas, Malaysia	13-20% contract subsidy 13% = $169 mil ($33.8 mil ea) 20% = $260 mil ($52 mil ea) (plus govt. financing and any associated subsidy)	13% contract aid was the 1991 level; however, a spokesman for the French Ministry of Industry said that a 20% ceiling would apply because the order was negotiated in 1990. In addition, there is the fact that Malaysia is a lesser-developed country, so that no ceiling may have applied.
Ordered: 1/93 *Delivery dates:* 4/95, 4/96	2 cruise ships, option for 3rd *Price:* $1.3 bil, $333 mil ea *Customer:* Royal Caribbean Cruise Lines, Miami	9% contract subsidy $90 mil ($30 mil ea) (plus govt. financing and any associated subsidy)	
Ordered: 5/90 *Delivery date:* 6/93	Cruise ship, 2220 passenger (2nd of two-ship order) *Price:* $220 mil *Customer:* Kloster Cruises, Norway	20-40% contract subsidy 20% = $44 mil 40% = $88 mil (plus govt. financing and any associated subsidy)	20% subsidy would be within OECD guidelines. Govt. refused to confirm. There were reports that the subsidy was 40%.

Contract Subsidies for Atliers et Chantiers du Havre (ACH). ACH is a medium-sized yard that builds specialty ships, including the subsidized Wind Star Sail Cruise and Club Med cruise vessels. Its latest subsidized order is a $120.5 million roll-on/roll-off vessel. The subsidy amount is $15.7 million or $35.7 million, depending on whether the government stayed within the 13 percent subsidy ceiling or went to 30 percent in order to meet the Finnish competition, as was rumored. As usual, the government refused to disclose the subsidy details.

Shipyard Reorganization Aid - Most of the government aid in this category has gone to assist shipyard mergers and closures.

- Research and Development

In the area of government-aided research and development, French yards can benefit from the following: (1) subsidies to partially finance joint research operations with shipyards, (2) monetary advances administered by the Agence Nationale de Valorisation de la Recherche (ANVAR) to institute an innovation repayable only if the innovation is successful, and (3) programs supported by the Ministry of Industry to improve shipyard productivity, research specialization in sophisticated ships, and the improvement of basic knowledge to enhance shipyard competitiveness.

SHIPBUILDING SUBSIDIES: GERMANY

AVERAGE ANNUAL SHIPBUILDING AID BUDGET SINCE 1988 IN GERMANY

Ship Financing		Direct Yard Aid			R&D	*Annual Average
Loans, Subsidized Interest	Guarantees	Contract Grants	Shipyard Capital*	Yard Loans, Interest Sub.		
YES $1.5b	YES	YES $353m	YES $463m	YES Amt. unkwn	YES	$2.3B

**Excludes sums, subsidy value of government guarantees.*

BACKGROUND

The German government is currently administering a $4 billion aid package for the shipyards in former East Germany. The economic drain from this program has caused some government officials to attempt to cut back on cash grants to western German shipyards, but with little success.

The political clout of the German shipbuilding industry to retain government subsidies cannot be overestimated. Not only are shipyards important employers, shipyard-government political ties have been strengthened by the fact that the federal government and regional governments (Schleswig-Holstein, Bremen) have held, or continue to hold, equity stakes in some of the country's most important yards. The head of the largest shipbuilding group in Germany, Bremer Vulkan, was a Bremen senator for economic affairs when Bremen owned 26.1 percent of the conglomerate. The second largest German shipbuilding group, Howaldtswerke Deutsche Werft (HDW) is 75 percent owned by the federal government through a state steel mill and 23 percent owned by Schleswig-Holstein.

The German Association for Shipbuilding and Marine Technology (VSM), one of the chief lobbying groups for German shipbuilding subsidies, has tended to complain publicly that German shipbuilders do not get the top percentage of contract aid allowed in the European Community, but has been quiet on the fact that the industry gets generous financing help from the German state reconstruction bank, Kreditanstalt fuer Wiederaufbau (KfW).

DESCRIPTION OF SHIPYARD AID

- Ship Financing

Export/Domestic Ship Loans and Interest Subsidies - The German government bank KfW provides financing for export and domestic ships built in German shipyards, generally under the terms of the OECD Understanding for Export Ships. The government may subsidize the market interest rate by two percentage points for ships or as much as required to meet the conditions offered by foreign competitors. Ordinarily, KfW arranges the ship financing deals through the shipyards. It also arranges consortium financing involving public bank and private bank funds. In addition, KfW administers the 8E development assistance fund for financing loans and providing interest assistance to shipowners from lesser-developed countries. There are no restrictions on the amount of subsidy that can be provided under this program.

SHIP LOANS, INTEREST ASSISTANCE PROVIDED BY THE GERMAN GOVERNMENT

1988	1989	1990 (Incomplete)	1991 (Incomplete)
$1.76 billion	$1.8 billion	$1.3 billion	$1.1 billion

Guarantees/Insurance - KfW loans are insured by Hermes, with the federal government carrying the risk. Other guarantees may be provided by the governments of the four coastal states if they cannot be secured through ship mortgages.

- Direct Yard Aid

Contract Grants - The government pays German shipyards a percentage of a contract price of a ship in order for the yard to secure the contract. Since 1987, two-thirds of the contract aid is supposed to come from the federal government and one-third from the states. Although there have been notable exceptions, in general, the federal government has conformed to the following ceilings on contract aid for yards in western Germany: 20 percent, 1988 and 1989; 14 percent, 1990; 12.5 percent, 1991; west, 9.5 percent to mid-1992; 7.5 percent after mid-1992; east, 36 percent to 1994.

CONTRACT SUBSIDY BUDGETS (EXCLUDES 8E DEVELOPMENTAL ASSISTANCE)

Period, W. Yards	Budget	Period, E. Yards	Budget
1988 through 1990	$412m (dm700m) + $182m (dm300m) supplemental = $594m	1991 through 1993	$553m (dm830m)
1991 through 1992	dm 450m allocated = $294m (aid frozen for several months in 1991)		
1993 through 1995	dm700m ($467m) allocated = $467m (dm168m is for 1993)		

Development Aid/Tied Aid - The original purpose of development aid was to help out a lesser-developed country (LDC). However, since the mid-1980s, it has been a common practice in Germany to use funds from the KfW bank under the 8E program to attract business for domestic yards, particularly the government-supported conglomerates of Howaldtswerke Deutsche Werft (HDW) and Bremer Vulkan (BV).

Under the 8E program, a shipowner from an LDC gets soft loans for ships built at German yards on extremely favorable terms, and the German shipyard gets a generous grant that is not subject to any ceilings. For this reason, the German government agreed to call Israel an underdeveloped country in order to get two contracts for HDW to construct seven containerships which were delivered to Zim Israel in 1990, 1991, and 1992. During the late 1990s, China Ocean Shipping (COSCO) was also able to get cheap ships from subsidized HDW. Most recently, however, in a rare move, the Commission of the European Community decided the German government would be picking up too much of the bill on a tentative deal between COSCO and Bremer Vulkan and disapproved the plan, which would have paid a 33 percent subsidy to Bremer Vulkan and a 36 percent subsidy to Bremer Vulkan's recently acquired subsidiary, Mathias Thesan Werft (MTW) in former East Germany.

TIED-AID EXAMPLES BENEFITING HDW AND BREMER VULKAN SHIPYARDS

Customer/Dates	Yard	Ships/Price	Subsidy
Zim Israel, Israel *Order date*: 7/88 *Del. dates*: 4/90, 10/90, 4/91, 7/91	HDW	4 containerships 2,700 teu (46,700 dwt) Price: $228m ($57m ea)	*25.4% Grant* = $58m ($14.5m ea) *Soft Loan*: 100%, 10 yrs, 3.625% interest, 1 yr grace
Zim Israel, Israel *Order date*: 8/89 *Del. dates*: 1991, 1/92, 4/92	HDW	3 containerships 2,400 teu (46,700 dwt) Price: $167.4m ($55.8m ea)	*30% Grant* = $50.25m ($16.75m ea) *Soft Loan*: 100%, 10 yrs, 3.625% interest, 1 yr grace
COSCO, China *Order date*: 4/87 *Del. dates*: 10/89, 10/89, 9/90	HDW	3 containerships 2,700 teu 47,100 dwt Price: $166.8m ($55.6m ea)	*34.67% Grant* = $57.83m ($19.3m ea) *Soft Loan*: 100%, 15 yrs, 3.75% interest, 3 yrs grace
COSCO, China *MoA Date: 10/91* *EC DISAPPROVED, 7/92*	1)BV 2)BV-MTW	3 containerships 3,800 teu Price: $382.9m ($127.6m ea)	35% *Grant (Av.)* (36% MTW, 33% BV) = $134m ($44.67m ea) *Soft Loan*: 89%, 11 yrs, 3.5% interest

Currently, BV-MTW is under contract to build two 1,066 teu containerships for the Indonesian-flag company, which will receive a soft loan to cover 85 percent of the price over 12 years at an interest rate of 4.25 percent. The subsidy amount has not been revealed, but the yard is eligible to receive contract aid of 36 percent. The EC Commission, which approved the deal, has insisted that the shipowner must be a real resident of Indonesia and not just be using Indonesia as a flag of convenience.

During the past few years, the German government has paid subsidies to other German yards to build ships for firms flying the Indonesian flag, as well as owners flying the flag of Singapore, Turkey, the Cayman Islands, and others. German yards that have benefitted include J.J. Sietas and Meyer Werft. By the end of 1994, Meyer Werft will have delivered 15 passenger ferries to Indonesian owners, all of which have been subsidized by the German government. Subsidies have ranged from 29-39 percent with soft financing terms including 12-18 year loans at 3.25-3.75 percent interest.

Shipyard Capital - After February 1987, German regional governments were supposed to provide the aid for the rationalization, modernization, conversion, and diversification of shipyards within their respective boundaries instead of the federal government. Nevertheless, the federal government continued to provide this type of aid, in the form of loans, guarantees, and cash infusions for shipyard operations--primarily to government-owned HDW and Bremer Vulkan shipbuilding conglomerates.

EXAMPLES OF SHIPYARD OPERATING AID TO HDW AND BREMER VULKAN

Year	Yards	Aid Amount	Aid Description
1987	HDW, BV	$83.4m (dm150m)	Federal/state injection of working capital.
1988	HDW	$63.9m (dm112.35)	Capital injection from govt.-owned Salzgitter.
1988	BV	$74m (dm130)	Credit guarantee.
1989	HDW	$22.6m (dm42.455)	Regional govt. (Schleswig Holstein) capital infusion.
1989	HDW	$2.6m (dm4.9m)	Shareholding capital and investment grants to take over the Flensburger yard. In addition, Schleswig Holstein provided state guarantees on loans for working capital and for future yields on the shareholding capital (unspecified amounts).

On July 20, 1992, the European Community (EC) approved the German government's plan to provide a $4 billion (dm6 billion) subsidy package to modernize, restructure, and cover the losses of the shipyards in former East Germany. The yards that are receiving the largest portions of the aid are the Norwegian shipbuilding conglomerate Kvaerner, which has taken over Warnow Werft, and Bremer Vulkan, which has taken over Mathias Thesan Werft (MTW). In exchange, Kvaerner will invest $71.3 million and BV $123 million in the yards. The following table shows the breakdown of the reorganizational aid.

EC-APPROVED SHIPYARD REORGANIZATIONAL AID ($4 BILLION TOTAL)

AID TYPE	Kvaerner - WarnowWft	BV -Mathias Thesan	Hegemann-Peene Wft	Volkswerft Stralsund	Elbewerft Boizenburg	Rosslauer Schiffswft
Investment	$325.3m	$251.7m	$92.5m	$187m	$6.8m	$08.5m
Restructuring	$379.7m	$351.67m	$65.9m	$81.5m	$18.1m	0
Closure (e.g., redundancy payments)	$ 46.7m	$24.8m	$21.5m	$25.7m	$11.0m	$07.3m
Losses, current contracts	$478.1m	$288.07m	$62.2m	$245.9m	$49.9m	$49.1m
Losses, old debts	$164.5m	$153.9m	$31.5m	$196.4m	$64.3m	$30.4m
New equity	$70m	$72m	$40m	$130.1m	$30.9m	$18.9m
Environmental	$16.8m	$42.3m	$0.8m	$1.3m	$0.13m	$0.2m
TOTALS	$1.5b	$1.2b	$314m	$868m	$181m	$114m

- <u>Research and Development</u>

The German government appears to be reluctant to reveal the scope of its involvement in subsidizing ship and shipbuilding-related R&D. Among the subsidized projects are: computer-controlled ship production techniques (through the Federal Ministry of Research and Technology and the Federal Ministry of Economics), and fast ferry R&D.

SHIPBUILDING SUBSIDIES: ITALY

AVERAGE ANNUAL SHIPBUILDING AID BUDGET SINCE 1988 IN ITALY

Ship Financing		Direct Yard Aid			R&D	**Annual Average
*Loans, Subsidized Interest	Guarantees	Contract Grants	Shipyard Capital	Loans		
YES $557m	YES	YES $175m	YES $184m	YES	YES $24m	$940M

**Does not include loans for ships built for owners in lesser-developed countries.*
***Excludes subsidy value of government guarantees.*

BACKGROUND

The principal commercial shipbuilding yards in Italy belong to the state-owned conglomerate, Fincantieri, which controls about 70 percent of Italian shipbuilding capacity. The yards are run at a loss, with the Italian government picking up the tab. Through the provision of substantial subsidies, the government has attracted orders to Fincantieri for sophisticated ships such as passenger vessels, thereby enabling the yard to develop the expertise that has established it as a market leader in a relatively short period of time.

DESCRIPTION OF SHIPYARD AID

- ### Ship Financing

Export Ship Financing - The Italian government may provide loans for export ships built in Italian yards through the Mediocredito Centrale bank. The government may also provide interest subsidies to bring the financing down to the rate of the OECD Understanding on Export Credits for Ships. In addition, export ships are eligible for export credit insurance, as are other capital goods, through SACE, a public agency.

Domestic Ship Financing - The Italian government provides interest subsidies for domestic ships to bridge the gap between available financing in Italy and the OECD rate for export ships. Orders can be placed in any EC country. When the vessel is maintained under the Italian flag. the amount of the government contribution is calculated on the basis of the reference rate plus two points. In addition, under the Finmare Law, Italian-built, Italian-flag ships can get 30 percent subsidies, which are equivalent to the depreciation on the vessels during the first five years. Another option is law no. 361/82, which allows for half-yearly subsidies on newly-built ships over 12 years, amounting to a discounted grant equivalent of 25 percent.

- ### Direct Yard Aid

Contract Grants - The government of Italy gives cash grants to Italian yards to enable them to capture contracts. Italy can provide the grants at the maximum level allowed by the Commission of the European Community. Since 1987, the percentage of a ship construction contract price that an Italian yard could receive was 28 percent (1987 and 1988), 26 percent (1989), 20 percent (1990), 13 percent (1991), and 9 percent (1992 through 1994, to date). Yards can elect to receive up to 75% of the grant at the start of construction, or at intervals during ship construction.

Between January 1987 and January 1990, Italian yards subsisted on a hefty backlog of orders placed in late 1986 to take advantage of the larger subsidy ceilings authorized until 1987. 1987 and 1988, contracts for 18 vessels were put on hold at Italian yards, waiting for action by Italian Parliament, which authorized the shipbuilding aid in early 1989.

Cruise Ship Contract Grants for Fincantieri. Of particular interest are the subsidies the Italian government pays to attract cruise ship contracts to the public shipyards of Fincantieri.

EXAMPLES OF CRUISE SHIP SUBSIDIES AT ITALY'S FINCANTIERI

Customer	Order Date	Ships/ Registry/U.S. Routes	Del. Date	Price and Subsidy
P&O, U.K. Princess Cruises, USA (Los Angeles)	1/93	<u>1 ship, 1,950 passenger</u> (77,000 gt) *Sun Princess* <u>Register</u>: Italy	1995	<u>Price</u>: $300m <u>Subsidy</u>: 9% grant = $ 27m 30% Italian flag sub. = <u>90m</u> Total: $117m (+ govt. finance)
Carnival Cruise, USA (Miami)	1/93	<u>1 ship, 1,300+ berths, 2,600 passenger</u> (95,000 gt) Foreign registry	1996	<u>Price</u>: $400m+ ($550m true cost) <u>Subsidy</u>: 9% grant = $36m (+ govt. finance)
Carnival Cruise Lines, USA (Miami) Holland America Lines subsidiary (Seattle)	1/89	<u>3 ships, 1,250 berths ea</u> (50,000 gt) *Statendam* *Maasdam* *Ryndam* <u>Register</u>: Bahamas <u>Routes</u>: U.S. West Coast, Alaska, Caribbean	 1992 1993 1994	<u>Price</u>: $200m 250-300m <u>300m</u> $ 750-800m total <u>Subsidy</u>: 28% grant = $210m-$224m (plus govt. financing subsidy)
Costa Cruise, Italy	7/89	<u>1 ship, 1,300 passengers</u> *Costa Classica* Italian flag To be marketed seasonally in North America Employed in Caribbean, Mediterranean	1992	<u>Price</u>: $270m <u>Subsidy</u>: 28% grant = $ 75.6m 30% Italian flag sub= <u>81.0m</u> Total: $156.6m
P&O, U.K. Princess Cruises, USA (Los Angeles)	1988	<u>2 ships, 1,700 passengers ea</u> (70,000 gt) *Crown Princess* *Regal Princess* <u>Register</u>: Italy <u>Routes</u>: U.S. West Coast, Caribbean	 1990 1991	<u>Price</u>: $275m ea, $550m total <u>Subsidy</u>: 28% grant = $154m 30% Italian flag sub = <u>165m</u> Total: $319m (+ govt. finance)

Until 1988, no cruise ships had been built at Fincantieri since 1966. In 1988, however, the Italian government made a deliberate attempt to use subsidies to capture cruise ship construction contracts for its public yards, starting with a contract with P&O-Princess Lines. Generous government subsidies enabled Fincantieri to become the world's premier cruise shipbuilder in just five years. Today, the Italian government continues to provide subsidies and cover Fincantieri's losses so that the shipbuilding conglomerate can remain internationally competitive in this market niche.

Shipyard Capital, Modernization and Reorganization - Italian shipbuilders can receive modernization aid (without increasing capacity) of up to 40 percent of the investment. Ship repair yards can be paid by the government for up to 80 percent of their investments. If yards reduce capacity by converting to other activities, they may receive government loans to cover 50 percent of the costs--70 percent for yards in the Mezzogiorno.

Shipyard Capital, Investment Aid - The Italian government routinely pays to cover the losses of state-owned Fincantieri, the commercial shipbuilding conglomerate which controls about 70 percent of Italian shipbuilding capacity. The yearly losses at these shipbuilding facilities are absorbed by the Italian government and approved by the European Commission. EC-approved loss compensation aid includes $106.5 million for 1988. (Figures were unavailable for 1989 losses, but they had been predicted to be greater than 1988.) EC-approved losses for 1990 amount to $224 million. Anticipated losses for 1991 were $145 million.

- <u>Research & Development</u>

The Italian government provides subsidies for ship R&D programs, covering up to 90 percent of the cost for research in ship design and ship propulsion, and up to 50 percent of the cost of building prototypes. This includes cruise ship R&D.

SHIPBUILDING SUBSIDIES: JAPAN

ANNUAL AVERAGE SHIPBUILDING AID BUDGETS SINCE 1988 IN JAPAN

Ship Financing		Direct Yard Aid			R&D	Annual Average*
Loans, Subsidized Interest	Guarantees	Contract Grants	Shipyard Capital*	Yard Loans, Interest Sub.		
YES $818m	YES	SOME	YES $85m	YES	YES $1b	$1.9B

**Excludes sums, subsidy value of government guarantees.*

BACKGROUND

Every aspect of shipbuilding policy in Japan is set and overseen by the government through the Japanese Ministry of Transport--to setting up cartels through the assignment of yards to shipbuilding groups, to deciding how much tonnage can be produced, to imposing guidelines on what shipyard improvements can be made, to controlling what facilities are disposed of, to influencing what kind of ships are designed and built, to recommending budgets for shipbuilding promotion and ship financing programs. By exercising such control over the industry, the government has played a significant role in the ability of Japan to be the world's premiere shipbuilding nation, with over 30 percent of the number of oceangoing commercial vessels on order and nearly 40 percent of the deadweight tonnage on order.

DESCRIPTION OF SHIPYARD AID

- Ship Financing

Export Ship Loans and Guarantees - Loans for Japanese-built export ships are available through the Japanese Export-Import Bank. Export insurance is underwritten by the Ministry of International Trade and Industry.

Domestic Ship Financing - There are two major programs available for financing Japanese flag ships:

Planned Shipbuilding Scheme (Keiku Zosen). The Ministry of Transport (MoT) provides 50-70 percent loans for Japanese oceangoing vessels through the Japanese Development Bank (JDB) at rates below prime with 13 years to pay, including a 3-year grace period. High-technology ships emphasized by the MoT (such as LNG tankers) get the best financing terms. The amount of financing disbursed from this fund has increased since 1989. The government has argued that the ships do not have to be built in Japanese yards; however, only one ship built outside of Japan has been financed under this program.

Maritime Credit Corporation (MCC). Special government-assisted financing and other benefits are available under this program for Japanese coastal vessels operated by domestic shipping lines and harbor transport companies.

KNOWN AMOUNTS OF JAPANESE GOVERNMENT SHIP FINANCING BUDGETS

Ship Financing: (1) Export ship loans through Ex-Im Bank, (2) Loans for Japanese seagoing ships, (3) Financing for Japanese coastal vessels.	1988	1989	1990	1991
	$849m	$733m	(Incl. proposed amounts) $826m	(Includes estimates) $867m

- Direct Yard Aid

Contract Grants - In general, the Japanese government prefers other methods of yard support. Currently, the government is providing a $94.4 million (25.17 percent) subsidy to Hitachi Zosen to build three 3,800 teu containerships for the China Ocean Shipping Co. (COSCO). Government support includes a soft loan covering 89 percent of the $375 million purchase price, to be repaid over 14 years at 6 percent interest with an 8-year grace period. The government defended the subsidy as a response to a German subsidy on COSCO contract. The German subsidy was subsequently disapproved by the European Community and withdrawn, but the Japanese did not follow suit.

Shipyard Capital for Rationalization - For the period 1987 through 1991, the Japanese government budgeted $222.2 million to buy up redundant docks and facilities at Japanese yards and $370.4 million in government guarantees for debt payments for reorganizing or scrapping redundant docks-facilities, soft loans through the JDB, and a 10 percent tax exemption on capital investment for yards to convert to other industries.

Shipyard Capital for Modernization - The government also budgets aid to Japanese shipyards for the purchase of automated or high-efficiency machinery and equipment under the Production Streamlining Program. From 1987 to 1992, this budget was $41.1 million per year.

- Ship and Shipbuilding Research and Development

Japanese ship and shipbuilding-related research and development projects are often cooperative ventures between government institutions, government-supported universities, non-profit organizations set up to receive special grants, soft loans, and tax exemptions, and industry. The Japanese government budgets over $1 billion annually to support these programs. Current R&D projects supported with government funding include computer-aided manufacturing, environmentally-sensitive double-hulled tanker, high-speed Techno-Super Liner cargo ship, propellerless ship, advanced marine diesel engine, superconductive electromagnetic propulsion (Semp), ship hull weight reduction, improved shafts, hull coatings, noxious fumes reduction, and others.

Since July 1989, the Association for Structural Improvement of the Shipbuilding Industry (ASISI) has been the government entity responsible for promoting research and development in ship technologies and for granting subsidies to innovative marine R&D projects deemed too risky to be borne by private industry alone. This association replaced the Designated Shipbuilding Enterprises Stabilization Association. Government funding is distributed primarily through the Japan Shipbuilding Industry Foundation.

SHIPBUILDING SUBSIDIES: SOUTH KOREA

ANNUAL AVERAGE SHIPBUILDING AID BUDGETS SINCE 1988 IN S. KOREA

Ship Financing		Direct Yard Aid			R&D	*Annual Average
Loans, Subsidized Interest	Guarantees	Contract Grants	Shipyard Capital	Yard Loans, Interest Sub.		
YES $1.8b	YES	Unknown	YES	YES $595m	YES	$2.4B

**Excludes sums, subsidy value of government guarantees.*

BACKGROUND

South Korea became a world leader in commercial ship construction during the 1980s--second only to Japan--by offering rock bottom ship prices subsidized by the Korea Development Bank (KDB), thereby creating enormous debts, amounting to $4 billion by 1989 at the four major yards, an amount equal to four times their equity capital. KDB loans to shipyards remains a major component of South Korean shipbuilding aid.

In 1993, the Korean Ministry of Trade, Industry, and Resources announced a new five-year economic program in which shipbuilding is targeted for a 25.3 percent increase in gross tonnage (5.9 million gt) built at Korean yards by 1998, to include liquified natural gas (LNG) tankers, car ferries, and high-speed passenger vessels. As part of the plan, a 600,000 square meter industrial park in Pusan for ship machinery production is to be developed, utilizing a combination of private investment and government funds for industrial research and development.

DESCRIPTION OF SHIPYARD AID

- Ship Financing

South Korean state-controlled banks have become increasingly active in ship finance brokering, arranging loans with government and private Japanese banks for customers whose ships are built in Korean yards. Examples:

- In 1990, the Korea Development Bank arranged a lease finance scheme in which a bank consortium of the KDB, Korea Exchange Bank, and two private Japanese banks (Hanil and Sumitomo) provided a 12-year loan valued at $497 million to build five containerships for Hyundai and Hanjin at South Korean yards on financing terms more favorable than straight KDB financing.

- In March 1993, it was announced that the Korea Export-Import Bank was leading a consortium involving the bank and Japanese traders and bankers for financing the construction of a fourth 125,000 cubic meter LNG tanker at a South Korean yard (Hyundai Heavy Industries) to be operated by Hyundai Merchant Marine and hired out to the Korea Gas Corp.

Export Ship Loans and Guarantees - Government-supported financing for export ships built in South Korean yards is available through the Korean Export-Import Bank. Export ship financing guarantees are also available.

Domestic Ship Loans - Under the Government Financed Newbuilding Scheme (GFNS), loans are provided through the KDB for the construction of domestic ships in South Korean yards.

- Direct Yard Support

Shipyard Loans and Interest Subsidies - The Korean Development Bank has financed loans for shipyard working capital, equipment purchases, and technological improvements, since the government made the decision to build up the country's shipbuilding industry in the 1980s.

The Big Bailout. On August 28, 1989, the South Korean government approved a rescue package for Daewoo Shipbuilding and Heavy Machinery, the Korea Shipbuilding & Engineering Co. (KSEC), and Inchon Shipbuilding Co., consisting of interest-free loans, debt moratoriums, tax exemptions, and other benefits:

> *For Daewoo:* (1) A seven-year moratorium (until 1997) on $372.7 million of the yard's $2.1 billion debt. The interest savings alone is $208 million, which the yard has 17 years (until 2007) to repay the debt. (2) A new government loan of $223.6 million starting in 1990, to be repaid over 17 years, with a 7-year grace period (not interest-free). (3) A payment of $116 million from the government in 1990, and a payment from the Korean Ex-Im Bank of $200 million between July 1990 to 1995, to cover losses resulting from the 1984 contract default of U.S. Lines. (4) Exemptions from taxes and other legal restrictions on divestments and mergers.
>
> *For KSEC:* Tax cuts, easy loan terms, and other unspecified financial aid.
>
> *For Inchon*: Exemptions from certain capital investment restrictions.

- Shipbuilding Research & Development

In June 1990, the South Korean government announced that it was making $492 million available to major Korean shipbuilders and various Korean research bodies to develop ship design automation by 2001.

SHIPBUILDING SUBSIDIES: SPAIN

AVERAGE ANNUAL SHIPBUILDING AID BUDGET SINCE 1988 IN SPAIN

Ship Financing		Direct Yard Aid			R&D	**Annual Average
*Loans, Subsidized Interest	Guarantees	*Contract Grants	Operating, Reorg. Aid	Yard Loans, Interest Sub.		
YES $306m	YES	YES $153.5m	YES $438m	YES	YES	$897M

** Excludes financing, subsidies for owners in lesser-developed countries.*
***Excludes sums, subsidy value of guarantees*

BACKGROUND

The largest shipyards in Spain are government-owned (through the Instituto Nacional de Industria (INI), the sole shareholder) and are operated under the umbrella of Astilleros Espanoles SA (AESA). The government also owns the commercial shipbuilding yard Astilleros y Talleres del Noroeste (ASTANO), as well as the BAZAN naval shipbuilding yard.

Spain became part of the European Community (EC) in 1986. It was exempted from certain shipbuilding subsidy ceilings imposed the EC Commission, with the understanding that Spanish shipyards would make substantial cuts in shipbuilding capacity and be operating at profitable levels by 1991--something that has not yet been achieved. The Commission of the European Community had reported that $1.6 billion would be required to cover the losses of Spain's public shipyards for the four-year period 1987 through 1990. Yet the government does not admit to providing any shipyard operating or reorganization aid.

The true level of subsidization of Spanish yards is probably much higher than the estimates in the table. In 1991, the European Community Commission declared the $2.4 billion provided by the Spanish government in shipbuilding aid between 1987 and 1990 to be legal. However, how that money was allocated during the three-year period is not clear.

DESCRIPTION OF SHIPYARD AID

- Ship Financing

Export Ship Loans and Insurance - Ships can be built in Spanish yards with the aid of loans through the Banco Exterior de Espana and government subsidies to bring interest rates down to the 8 percent allowed under the OECD Understanding on Export Credits for Ships. OECD loans have been popular in Spain because shipowners could get the loans and invest the money at market interest rates of 13 percent. The Banco Exterior covers the risk of its loans. In addition, export credit insurance is available from the Compania Espanola de Creditor a la Exportacion.

In early 1992, the central government announced that it would not approve new government-backed soft export loans for ships. However, it appears that regional governments are willing to take up the slack, with the complicity of Spain's Official Credit Institute. In early

1993, for example, the Galician regional government has offered to back a loan to provide financing to three Spanish yards within its jurisdiction to help them win an order for ten multipurpose containerships for the Danish company, Nordane. The three yards are Santo Domingo, Freire, and Vulcano. The Galician regional government coordinated the loan with the Spanish Official Credit Institute, which is responsible for OECD-style loans.

Tied Aid - Subsidized financing, and contract grants are available from the Development Aid Fund without restrictions for the construction of ships in Spanish yards for owners from lesser-developed countries. Two examples follow:

EXAMPLES OF SPANISH TIED AID

Yard	Date	Customer	Contract	Govt. Subsidies
AESA	1992	TMM, Mexico	5 containerships (36,500 dwt) $380 mil.	27.5% subsidy = $104.5 mil. Soft loan: 30-yrs, 14-yr grace period, 3.4% interest
AESA-Vigo	1991	Lignes Maritimes du Detroit, Morocco	Ferry Price undisclosed	30% subsidy Soft loan: 30-yrs, 10-yr grace period, 2% interest

Domestic Ship Financing - The state Industrial Credit Bank provides 85 percent loans for new ships built for Spanish owners at 8 percent interest, with 12-14 years to repay and a grace period of up to 2 years. Interest subsidies are provided up to three points.

- Direct Yard Aid

Contract Grants - The Spanish government gives a combination of contract-related grants for new ships and ship conversions, comprised of a production grant and a special grant, both of which vary and are based on a percentage of contract value. Production grant ceilings imposed by the Spanish government vary with the value of the contract and go up to 23 percent, with the higher value new construction contracts eligible for the higher subsidies. The specific grant is in addition to the production grant and has a ceiling of 5 percent of the contract value.

Shipyard Operating, Reorganization Aid - The Spanish government does not admit to providing shipyard operating and reorganization aid. Nevertheless, the government covers the losses of the public shipyards each year. AESA, the largest public shipbuilding group, lost $95 million in 1992, $49.2 million in 1991, $102.6 million in 1990, and $142.2 million in 1989.

Chairman GIBBONS. Thank you, Mr. Stocker. Your entire statement, together with all the exhibits that you attached thereto, will be admitted as part of the record.

Mr. STOCKER. Thank you.

Chairman GIBBONS. And I was thumbing through these as we were talking here, and I notice you have an interesting table back here on Japanese shipbuilding cost-price relationship, and you have a column that is entitled percent of total cost not covered by the price, and then the Japanese have gone from 11.5 percent or 11.25 percent in 1982 is not covered by the cost, in other words covered by subsidies or by dumping, to 45 percent in 1985 and back down to 15 percent now again in 1989.

And it looks like they just increase their subsidies or do their dumping enough to get the contracts that they want. Is that a fair conclusion?

Mr. STOCKER. Mr. Gibbons, the Japanese strategy has been to seize as much market share as possible and try to retain that market share.

It is interesting that, in light of the appreciation of the yen, over the past 2 or 3 years, that they have still been able to maintain about 40 percent market share. This is consistent with the strategy they pursue in other industrial sectors where, because of the strength of their financial system and the strength of their trading companies, they are able to effectively drive their industrial competition off the marketplace and to continue to maintain that position within the marketplace.

Understand what they did in the 1980s, while they were dumping ships on the market to compete, frankly against the Korean dumping practices, their government agreed to allow them to form a cartel to devise a system whereby ship owners going to Japan would be directed to a very small number of yards to discuss specific ship types and specific contractual arrangements. In that restructuring of their industry, their government essentially bought up excess drydocks, real estate, from those companies, and paid those companies for the closure of those facilities.

So, in effect, what they did for the major shipbuilding companies—we are talking about very big trading houses, Mitsubishi, Kawasaki, Matsui—they were paid by the Government for shutting down those facilities and they received, in fact, investment capital for free, which they were then able to use to plow back into their remaining facilities that they kept open.

Our concern about the current situation, Mr. Chairman, is that Mr. Zosen, who is the Deputy Minister of Transport in Japan, just recently, within the last 3 or 4 weeks, announced that Japan will have to consider doing a similar set of steps again. We would point out that, in the mid-1980s, the Justice Department did not look at the potential impact on the U.S. producers of the cartel operating in that market with its great effect on the international market.

Our intention is to, because of the changes that have been made in antitrust law in the United States, to look at the potential for taking an extra territoriality approach to the Japanese situation if it appears they intend on forming that cartel again.

Chairman GIBBONS. What can you say about the Korean subsidies?

Mr. STOCKER. The Korean practices have generally been in the area of the Korean Development Bank underwriting their dumping practices. In the late 1980s and early 1990s their four biggest producers were nearly $6 billion in debt.

What the Korean Government agreed to do was write off that debt. In effect, the Korean Development Bank was able to step in and provide the necessary cash proceeds to wipe out that debt.

So, in effect, after spending ten years of undercutting everybody's prices in the marketplace and absorbing the losses that they did, the Korean Government effectively covered those losses for those shipyards. That is a tremendous advantage.

If the U.S. Government would agree to do something similar for us, we would be glad to offer ships at a dollar a ton, whether we make money or not.

Chairman GIBBONS. Well, in any other form of transportation, there is no doubt that that would be a prohibited subsidy.

Mr. STOCKER. That is absolutely true.

Chairman GIBBONS. The way our laws are interpreted, it just doesn't apply to ships.

Mr. STOCKER. That is right.

Chairman GIBBONS. I notice you have a chart in here about—well, it is on page 7 of one of your exhibits—examples of 1992–93 subsidy contracts, and it is talking principally about the benefits that cruise lines and roll-on/roll-offs have received.

It outlines a huge subsidy in Italy, France, Germany, Spain, Japan. Could you comment on that, the subsidies that the cruise line operators have received?

Mr. STOCKER. Mr. Gibbons, the presence of subsidy practices in the cruise market is extensive and pervasive.

As you may know, we have a petition pending before the Federal Maritime Commission because we believe they have jurisdiction to take action against the Italian-built cruise ships calling at U.S. ports.

It happens that this is the end of the market that we are very interested in. Cruise ships are very expensive, they are very complex, and it is interesting that where we see the most direct subsidy practice, it tends to be at that end of the market, where you are talking about a relatively complex vessel that requires extensive outfitting and is very costly.

It is also interesting to note that Italian shipbuilders were not in the cruise ship business until very late in the 1980s when the Italian Government made a definitive decision to begin supporting their state-owned company directly in the cruise ship market.

And you went from a situation where no owner knew very much about Italian shipyards, and as the Italian Government sweetened the pot for cruise ship owners, all of a sudden Italy became a source for cruise ship construction.

These practices are very interestingly intertwined between not only the direct contract subsidy on the ship but also, in many cases, and we show some examples here of P&O, Princess Cruise Lines, for example, agreeing to operate the ship under the Italian flag where they continue to receive operating subsidy support from the Italian Government.

And, in fact, Mr. Chairman, one of the things that we are beginning to recognize is that there is a very close linkage between the kinds of practices that some countries engage in on the construction side now beginning to link into operating support as well, because, obviously, that helps an owner's cash flow, particularly when he has to start repaying the loan that may have been floated to support his construction.

That is true of the Italian case; we understand currently that is true in the case of an American shipping company that is buying ships from Germany, and it is having a profound effect on the marketplace because it is giving an unfair advantage, of course, to those who are able to not only get a good deal on the construction of the ships, but also getting assistance on repaying the debt.

Chairman GIBBONS. Well, are you, in effect, saying to me that Italian taxpayers are subsidizing ships that are built essentially for American home-ported cruise ships, used principally by Americans for vacations?

You mean to tell me the Italians are subsidizing our vacations?

Mr. STOCKER. The port of Miami should send a thank you letter every month to the Italian Government in Rome thanking them for their support.

Chairman GIBBONS. I am sure the Italian taxpayers would be glad to understand that they are being taxed to support wealthy Americans cruising to the Caribbean.

Mr. STOCKER. Given the political uncertainties that presently exist in Italy, Mr. Chairman, I am sure the Italian taxpayers would love to get that message from you.

Chairman GIBBONS. Well, we will have to see if we cannot arrange that somehow.

Mr. STOCKER. I should also point out that the Port of Miami, while sending that thank you letter to the Italian Government, should probably look in the other direction as the unemployment lines lengthen in Newport News, Va.

Chairman GIBBONS. On one of your exhibits you show that the annual average subsidy in Germany is $2.3 billion. That is way back in all of your detailed material. Can you offhand comment on that?

Mr. STOCKER. One of the most serious problems that the European Community is currently facing, and I should be perfectly blunt and honest about this, Mr. Chairman, there is a substantial amount of debate within Europe about the degree to which Germany is supporting the integration of the east German shipyards into their economy, which we all recognize is a serious problem.

But, on the other hand, other European shipbuilders are now telling us that these practices are beginning to undercut their ability to be competitive in the marketplace as well.

These are huge sums of money, and, in effect, what we are seeing in some cases is the utilization of the east German excuse as a way to funnel loan guarantees and financing support to yards in the west. That is part of it.

The second part of that is what the German Government in effect is doing is creating brand new facilities that will be capable of being very competitive in the marketplace, and this will have a devastating impact over the long term in the marketplace.

In other words, the support they are giving to the east German shipyards, that impact will be felt for the next 20, 25 years or longer, because of the modern conditions they will create in those shipyards.

For example, one of the companies that is being supported, Bremer Vulkan, is working very closely with an east German shipyard. Their plan is to raise that shipyard to the ground and put a brand new facility from the ground up into that area, and they will have a very modern, efficient and competitive shipyard as a result, all financed by the taxpayers of West Germany.

The other thing that is happening is that the linkages between the east and the west are such that modules are being constructed in the east and assembled in the west. So the German Government will tell you, well, we have a special problem with the east and you have to understand that we have a reunification problem which we would readily agree with.

On the other hand, they like to say that we have reduced subsidies to the west. Well, in fact, what they are doing is funneling the support to the west through the shipyards of the east. It is a very significant problem.

I should point out to you, Mr. Chairman, again, that we are not the only ones concerned about this situation. Other shipbuilders in Europe are just as concerned as we are and are trying to fight within the context of the European Community to try to put some constraints on German behavior.

Chairman GIBBONS. I have noticed that quite a few of our ships have originated in France recently. What can you say about the French subsidies?

Mr. STOCKER. We have indicated to you in here that the French Government has a very active program of support. In fact, in the 1991 report of the European Commission on Shipbuilding Subsidy Practices, which we would be glad to make part of the record, Mr. Chairman, it notes that there was a substantial amount of support provided to the French shipyards for both LNG tank construction and cruise construction.

And this documentation for the first time is a public admission by the government in Paris that they have in fact intervened in the marketplace in a very substantial way.

These practices are particularly harmful to U.S. shipbuilders, because, again, cruise ships and LNG tankers are two market segments that represent a very real near-term payoff for us from the standpoint of being relatively complex, relatively high value ships.

It makes it easier for us to make a transition into the market through those segments.

Chairman GIBBONS. Well, your testimony is extremely interesting, and I don't think the average American, the average Italian, the average German, or anybody else is aware of the huge amount of subsidies that have the perverse effect of not only dislocating jobs in the international marketplace but of subsidizing cruises for wealthy Americans to the Caribbean.

And God bless them, but it is really a sorry example of the worst kind of subsidy I think that I can see left in the world economy.

You know, every other mode of transportation, every other industrial product, and now most of the agricultural products are cov-

ered by antisubsidy measures. For ships and shipbuilding not to be covered, or to have some discipline is a perfectly ridiculous situation.

I know that there are people who would argue to the contrary, but I don't understand it, frankly.

Well, thank you very much.

Mr. STOCKER. Thank you, Mr. Gibbons and once again we want to thank you for your leadership on this issue, and we pledge to work with you to help you get the bill passed again this year.

Chairman GIBBONS. All right, thank you.

Our next witnesses are from the American Institute of Merchant Shipping, the Shippers for Competitive Ocean Transportation Group, the Federation of American Controlled Shipping, and the American Association of Port Authorities.

If they would please come forward. Let us go first to the American Institute of Merchant Shipping.

STATEMENT OF PETER J. FINNERTY, VICE PRESIDENT, PUBLIC AFFAIRS, SEA-LAND SERVICE, INC., AND VICE PRESIDENT, MARITIME AFFAIRS, CSX CORP., ON BEHALF OF AMERICAN INSTITUTE OF MERCHANT SHIPPING

Mr. FINNERTY. If I may, Mr. Chairman, I would be anxious to have my complete statement included in the record.

Chairman GIBBONS. Your statement and all other statements will be included in the record in their entirety.

Mr. FINNERTY. I have referenced in the statement certain documents and exhibits and I have brought an extra copy. I would very much appreciate it if they can also be included.

Chairman GIBBONS. Yes, sir. How thick are they?

Mr. FINNERTY. Not too thick. If any of them are too long, I would offer them for the guidance of the subcommittee.

Chairman GIBBONS. We have to worry a little about our printing bill, and probably ought to worry more about it, but we will include those.

Mr. FINNERTY. Whatever you think would be helpful.

I am Peter Finnerty, vice president of public affairs, Sea-Land Service, and vice president, maritime affairs, CSX Corp.

I represent the American Institute of Merchant Shipping, the 23 U.S.-flag ocean carriers, which own or operate approximately 11 million deadweight tons of tankers, dry bulk carriers, container ships, and other oceangoing vessels engaged in the domestic and international trades of the United States.

We very much appreciate the opportunity to present testimony in opposition to H.R. 1402 and we would hope, Mr. Chairman, to provide some explanations today, particularly with respect to title I of the bill, which might improve the legislation.

Obviously, U.S. ocean carriers are vitally interested in this bill. Although this legislation is an improvement over H.R. 2056 in the last Congress, AIMS and the coalition of interests opposed to the bill find title I totally objectionable and certain provisions of title II extremely troublesome.

Considering that thousands of ships call on the U.S. ports to transport most of our country's exports and imports, the adverse

economic effects of enactment of H.R. 1402 would be great in nature.

With respect to title I, I would like to explain why enactment of this legislation would, first, improperly extend countervailing duty and antidumping laws to U.S.-flagged and U.S.-owned ships in international commerce, adding to the demise of shipping in the United States.

Second, it would do nothing to relieve U.S.-flag operators from existing requirements to build and repair their vessels in U.S. yards, such as repeal the 50 percent ad valorem duty on maintenance and repair.

Third, it would disrupt trade at America's ocean ports and induce worldwide retaliation, and, fourth, severely harm America's exporters and importers.

Mr. Stocker, yesterday, Mr. Gibbons, testified before the Merchant Marine and Fisheries Committee. Adding further to some of the comments he offered earlier to you, it was most interesting to me that he was able to provide an indication that today in the worldwide market for large oceangoing ships in excess of 1,000 gross tons, Japan apparently has 40 percent of that market, South Korea 23 percent, according to Mr. Stocker's figures, and the European Community 20 percent, for a total of 83 percent of the world market.

I believe that is particularly significant because with that great share of the market concentrated in those few locations, title II of this bill represents an enormously powerful tool to be used in dealing with those countries and could conceivably bring about a solution to the subsidy problem if it is reshaped so that it would be more flexible.

Most importantly, title I would not be necessary in addressing that problem.

We urge you, Mr. Chairman, to reconsider title I carefully. Title I of H.R. 1402 would be, as I said earlier, a very harmful departure from current law. It contains a new approach on countervailing duty and antidumping provisions to penalize only U.S. ships and U.S. companies in foreign commerce, and they are not in domestic commerce.

Title I would help to shrink the U.S.-flagged merchant fleet and dissuade U.S. investors from new ship commitments. I don't think that is the intention of the provision, but we believe it would have that effect.

I have made available to your staff, and I include in the exhibits, copies of the news releases that went out earlier this week from Sea-Land, the company I am with, as well as American President Lines, where we have each announced submitting applications to the U.S. Government for permission to change the registry of a number of our ships, 13 in the case of Sea-Land, and 7 in the case of American President Lines.

This is an indication of the intense competitive pressure that all companies are under and the failure of the U.S. Government thus far, as you know, to respond with an adequate improvement of policy that will enable U.S.-flag carriers to remain competitive in that international marketplace.

The net effect of title I and the manner in which it defines vessel would mean that virtually every vessel contracted by a U.S. person, whether foreign flag or U.S. flag, would be susceptible to the countervailing duty and antidumping actions. Foreign-owned ships would not be affected, but U.S.-owned ships in foreign commerce would be penalized.

Title I would establish for the first time under U.S. law that vessels be considered as imported merchandise even though they do not enter domestic commerce and remain instruments of international commerce. The U.S. antidumping and countervailing duty laws authorize the imposition of additional duties on imported merchandise or commodities, if you will, which are found after investigation to have been dumped or subsidized and to have caused injury to a domestic industry.

Under longstanding precedent, oceangoing vessels and aircraft in foreign commerce, as well as other means of transportation used to convey goods in international trade, are instruments of international commerce and not imported merchandise subject to import procedures nor payment of import duties.

Accordingly, such vessels, aircraft and other instruments of international commerce, are not subject to those duties that may be imposed on imported merchandise.

Foreign commerce vessels have not been singled out for different treatment, as I believe was the contention in earlier testimony. Rather the law applies equally to all instruments of international commerce. The principle that vessels in international commerce are not imported products is recognized by U.S. courts, U.S. statutes, international agreements, and the laws of other countries.

The antidumping and countervailing duty laws apply only to merchandise that is imported for consumption in the domestic market. Merchandise that is not entered for consumption and articles of international commerce that are not imported are not subject to the import relief laws.

Most importantly, Mr. Chairman, U.S. shipbuilders already enjoy complete and absolute protection against imports of any foreign-made vessels for use in the domestic commercial market by the strict U.S.-built requirement of the Jones Act.

U.S. shipyards are thus fully protected against incursion in the domestic market for commercial vessels by foreign shipyards receiving subsidies from their governments. Existing CVD and AD provisions would apply, except for the Jones Act prohibition against importation of foreign-built ships into U.S. domestic commerce.

Title I's proposed application of countervailing duties and antidumping to U.S. vessels in foreign commerce, we believe, is improper and title I should be deleted from H.R. 1402.

As I stated earlier, our impression is, Mr. Chairman, the bill, as revised since last year, especially in title II, would create a very powerful and potentially effective mechanism. It does require certain changes, and I was particularly interested in the USTR's suggestions along that line.

I wanted to make one other point concerning the problems in shipbuilding internationally, and the fact that subsidies are but one important element in the competitive situation.

On page 10 of my testimony, near the bottom, it is noted, to a great extent the higher costs and longer timeframes in U.S. shipyards result from much lower productivity. For example, a 55,000 gross ton container ship built here in the United States in 1983 involved 2.3 million man-hours. A larger, 80,000 gross ton container ship built in 1988 in Europe involved only 900,000 man-hours.

Productivity includes many factors, such as planning, engineering and design, shipyard plant and equipment, shipyard automation and economies of scale that are achieved with series construction. We simply are trying to request that the subcommittee bear in mind that as important as the subsidy problem is, there are other factors in the overall competitive standing of U.S. yards that will also have to be addressed.

And I understand that Congress has under consideration other legislation to assist U.S. yards in modernizing and becoming better equipped to compete internationally.

We wholeheartedly agree, Mr. Chairman, that foreign shipbuilding subsidies should not be condoned. The correct approach to addressing such subsidies, if it must be through legislation, is through a legislative framework that penalizes offending foreign governments and shipbuilders, not ship owners, ship operators, ports and American exporters and importers.

To the extent unilateral action is deemed necessary, then it should be free of the countervailing duty and antidumping penalties focused only on U.S. ships and U.S. owners in title I. A successful remedy should focus on each foreign country's refusal to halt the grants of subsidies to their shipyards.

Thank you very much.

Chairman GIBBONS. Thank you.

[The prepared statement follows and attachments to the statement will be retained in committee files:]

STATEMENT OF PETER J. FINNERTY, VICE PRESIDENT, PUBLIC AFFAIRS, SEA-LAND SERVICE, INC., AND VICE PRESIDENT, MARITIME AFFAIRS, CSX CORP., ON BEHALF OF THE AMERICAN INSTITUTE OF MERCHANT SHIPPING (AIMS)

INTRODUCTION

I am Peter J. Finnerty, Vice President, Public Affairs, Sea-Land Service and Vice President, Maritime Affairs, CSX Corporation. I represent the American Institute of Merchant Shipping (AIMS). Thank you for this opportunity to present testimony in opposition to H.R.1402, "The Shipbuilding Trade Reform Act of 1993" introduced by Chairman Gibbons on March 18, 1993. The American Institute of Merchant Shipping (AIMS) is a national trade association representing 23 U.S.-flag ocean carriers which own or operate approximately eleven million deadweight tons of tankers, dry bulk carriers, containerships, and other oceangoing vessels engaged in the domestic and international trades of the United States. AIMS represents a majority of U.S.-flag tanker and liner tonnage.

Obviously, U.S. ocean carriers are vitally interested in this bill. Although this legislation is an improvement over H.R.2056 in the last Congress, AIMS and the Coalition of interests opposed to this legislation find Title I totally objectionable and certain provisions of Title II extremely troublesome. Considering that thousands of ships call at United States ports to transport most of our country's exports and imports, the adverse economic effects of enactment of H.R.1402 would be great in nature. We encourage the Committee to use as background the information presented in a study completed in April 1985 by the International Trade Commission (ITC) on shipbuilding matters and the June 1992 study also done by ITC.

SUMMARY OF TESTIMONY

For the record, AIMS strongly opposed enactment of H.R.2056, the bill on this subject introduced in the 102nd Congress by Chairman Gibbons. That bill was administratively unworkable. Instead, we supported the ongoing efforts to reach an international agreement to discipline shipbuilding subsidies worldwide because the approach embodied in the draft OECD Agreement is much preferable to a unilateral effort. Alternatively, to the extent those talks were further delayed, then we suggested that it would be far better for U.S. shipbuilders to proceed with their section 301 unfair trade complaint against foreign shipbuilding subsidies. That is a brief summary of our past efforts.

We oppose Title I of H.R.1402 and I would like to explain why enactment of this legislation would:

(1) improperly extend countervailing duty and antidumping (CVD/AD) laws to U.S.-flag and U.S.-owned ships in international commerce adding to the demise of shipping in the United States;

(2) do nothing to relieve U.S.-flag operators from existing requirements to build and repair their vessels in U.S. yards such as repeal the 50% ad valorem duty on maintenance and repair;

(3) disrupt trade at America's ocean ports and induce worldwide retaliation; and

(4) severely harm America's exporters and importers.

The following outline details AIMS' objections to the bill, particularly Title I.

OPPOSITION TO TITLE I

CVD/AD SHOULD CONTINUE TO APPLY ONLY TO "MERCHANDISE IMPORTED FOR DOMESTIC CONSUMPTION" -- NOT U.S. SHIPS IN INTERNATIONAL COMMERCE

We urge you to reconsider Title I carefully. Title I of H.R. 1402 would be a grave and harmful departure from current law. It contains new countervailing duty (CVD) and antidumping (AD) provisions to penalize only U.S. ships and U.S. companies. If enacted, Title I would help to shrink the U.S.-flag merchant fleet and dissuade U.S. investors from new ship commitments.

The definition of vessel is contained in this section: "(a) Definition - The term "vessel" means any vessel of a kind described in heading 8901, 8902.00.00, or 8906 (other than a warship) of the Harmonized Tariff Schedule of the United States of not less than 100 gross tons, as measured under the International Convention on Tonnage Measurement of Ships, 1969. This means virtually every vessel contracted by a "U.S. person" whether foreign-flag or U.S.-flag would be susceptible to CVD and AD actions. Foreign-owned ships would not be affected, but U.S.-owned ships in foreign commerce would be penalized.

Title I would establish for the first time under U.S. law that vessels be considered as <u>imported merchandise</u>, that certain countervailing and antidumping duty laws will apply to vessels built or repaired in foreign yards, even though they do not enter domestic commerce and remain instruments of international commerce.

The U.S. antidumping and countervailing duty laws authorize the imposition of additional duties on imported merchandise, commodities, if you will, which are found, after investigation, to have been dumped or subsidized and to have caused injury to a domestic industry. Under longstanding precedent, ocean-going vessels and aircraft, in foreign commerce, as well as other means of transportation used to convey goods in international trade are instruments of international commerce and not "imported merchandise" subject to import procedures nor payment of import duties. Accordingly, such vessels, aircraft, and other instruments of international commerce are not subject to antidumping or countervailing duties that may be imposed on imported merchandise (commodities). Foreign commerce vessels have not been singled out for different treatment; rather, the law applies equally to all instruments of international commerce. The principle that vessels in international commerce are not imported products is recognized by U.S. courts, U.S. statutes, international agreements, and the laws of other countries.

The antidumping and countervailing duty laws apply only to "merchandise" that is imported "for consumption" in the domestic market. Merchandise that is not entered for consumption, and articles of international commerce that are not imported, are not subject to the import relief laws.

This scope of application of the U.S. import relief laws conforms with the international agreement governing acceptable procedures for imposing antidumping and countervailing duty measures. Article VI of the General Agreement on Tariffs and Trade (GATT) defines "dumping" as the process by which "products of one country are introduced into the commerce of another country at less than the normal value of the products," and recognizes countervailing duties as permissible countermeasures levied on subsidized products "imported into the territory" of another country.

U.S. shipbuilders already enjoy complete and <u>absolute</u> protection against imports of any foreign-made vessels for use in the domestic commercial market by the strict U.S.-build requirement

of the Jones Act (46 U.S.C. Sec. 883). U.S. shipyards are thus fully protected against incursion in the domestic market for commercial vessels by foreign shipyards receiving subsidies from their governments. Existing CVD/AD provisions would apply but for the Jones Act prohibition against importation of foreign-built ships into U.S. domestic commerce.

Title I's proposed application of CVD and AD to U.S. vessels in foreign commerce is improper and Title I should be deleted from H.R.1402. *See Memorandum on Non-Applicability of U.S. Antidumping and Countervailing Duty Laws to Vessels, Aircraft and other Instruments of Trade Used Or Operated in International Commerce.

SECTOR SPECIFIC DOMESTIC LEGISLATION SOUGHT BY U.S. SHIPBUILDERS FAILS TO CALL FOR SHOWING OF INJURY DUE TO FOREIGN SUBSIDIES

Title I of H.R.1402 would bring U.S. vessels in foreign commerce under CVD/AD statutes. But domestic industries in countervailing duty investigations are generally required to prove that they have been injured by reason of foreign subsidies.

This "injury test" verifies the inference that subsidy practices are the "cause" of the problem in the related domestic industry. If the correlation is absent, it is doubtful that a countervailing duty should apply at all.

This is particularly troublesome because shipowners strongly believe that H.R.1402 would improperly apply CVD/AD to U.S. ships engaged in international commerce, not domestic commerce. In short, H.R.1402, without an injury test, is out of step with current U.S. fair trade laws. (H.R.1402 would extend the countervailing duty and antidumping laws to cover vessels in foreign commerce -- even though such ships truly are instruments of international commerce and not imported goods.) Some argue that subsidies are <u>per se</u> bad and therefore should be limited. They point out that a successful section 301 complaint does not require proving injury. But these arguments neglect both the statutory requirement of a showing that the foreign practices burden U.S. commerce <u>and</u> the much more flexible process that permits tailored sanctions that do not harm other American industries.

U.S. SHIPBUILDERS ARE IN A DIFFICULT TRANSITION

Government officials need to evaluate carefully the actual extent to which foreign shipbuilding subsidies are the reason that commercial vessels are not being built in the United States unless required by U.S. law or funded by the government.

In this regard, we urge this Subcommittee to understand that existing U.S. laws now provide significant protections to domestic shipbuilders. These laws, at the same time, impose cost disadvantages on U.S.-flag ship operators. Importantly, these include the imposition of a 50% <u>ad valorem</u> duty on repairs of U.S.-flag vessels in foreign shipyards. They also include various U.S.-build requirements in the Merchant Marine Act of 1936 (e.g. tax deferred funds in the Capital Construction Fund program may be used only for U.S.-built ships; Operating Differential Subsidy generally may be paid only for employing U.S. seamen aboard U.S.-built ships). Foreign-built vessels also are not fully eligible to compete for government-impelled cargoes until they have been under U.S. registry for three years. *See George Washington University Law Review "The Fifty Percent Ad Valorem Duty on Foreign Ship Repairs: Scope of Application and Proposals for Elimination." 1990

Moreover, U.S. shipbuilders continue to benefit from billions of dollars of Navy shipbuilding. This includes expansion of the military's sealift capabilities to the extent of 2.9 billion

dollars, as well as hundreds of millions to be spent for refitting Ready Reserve Fleet ships and repairs to the large U.S. Navy fleet.

In addition, U.S. ship repair and maintenance facilities generate hundreds of millions of dollars in revenue each year for services performed on foreign-flag ships. Oceangoing tankers and containerships frequently decide to repair in U.S. facilities due to timing of repair needs, business logistics, and emergencies. Thus, U.S. repair yards in fact serve the heavy traffic of foreign-flag customers.

The commercial reality is that, absent a legal requirement to do so, U.S.-flag operators are not building vessels in U.S. yards for the simple reasons that it costs much more and takes far longer than overseas. Actually, it has cost significantly more to build a ship in a U.S. yard than in a foreign yard for several decades. Until 1981, however, the U.S. Government subsidized the difference in U.S. shipbuilding costs (up to 50% of the U.S. cost). Not surprisingly, since the Government eliminated funding for the ship construction program, U.S.-flag vessels for commercial operation in the international trades have not been built in any significant number in the U.S.

To a great extent, the higher costs and longer time frames in U.S. shipyards result from much lower productivity. For example, a 55,000 gross ton containership built in the United States in 1983 involved 2.3 million man hours. A larger, 80,000 gross ton containership built in 1988 in Europe involved only 900,000 man hours. Productivity includes many factors, such as planning, engineering and design, shipyard plant and equipment, shipyard automation and economies of scale achieved with series construction.

As a result of lagging domestic shipbuilding productivity, by 1987 it was estimated to cost more than two times as much to build a vessel in a domestic yard and to take over twice as long to complete the job. Despite exchange rate changes, rising foreign wages, and a shortage of foreign shipyard berths, best estimates are that it still costs usually more than two times as much to build a ship in the U.S. and delivery still takes twice as long.

DISCIPLINING SHIPBUILDING SUBSIDIES IS BEST ACHIEVED BY INTERNATIONAL AGREEMENT OR, IN THE ALTERNATIVE, BY A MORE FLEXIBLE VERSION OF TITLE II

The proposed multilateral agreement under OECD auspices offers the best chance of disciplining shipbuilding subsidies worldwide. The USTR testified before the House Ways and Means Trade Subcommittee in March 1991 that a multilateral agreement "is the only reasonable one...based on a solid, rational analysis of the commercial needs of the industry." The then-Ambassador S. Linn Williams testified before the House Ways and Means Trade Subcommittee on July 9, 1991 that H.R.2056 "would not be an effective means of eliminating trade distorting practices in the shipbuilding sector, would be counterproductive to the current negotiations, and might actually result in less favorable conditions for U.S. shipbuilders than an international agreement."

A multilateral approach is required for several reasons arising out of the complexity of taking action in this area.

First, the multilateral approach to the elimination of shipbuilding subsidies worldwide affords each country participation in a uniform and structured regime. One indication of the complexity in devising such a regime is the difficulty in determining the definition of a subsidy. If each country were to determine individually the definition of a subsidy and the

limitations on its subsidy reform, the likely result would be a chaotic and ineffective system. A series of conflicting unilateral laws would be created, perhaps to the detriment of American owners and operators of vessels. For example, foreign governments might well perceive as "subsidized" some U.S.-built vessels that have benefitted from federal programs, perhaps even from construction programs that are no longer in effect.

The problem is even more acute because some of the alleged subsidies involve other sectors. For example, a number of ITC investigations and studies completed in the past two years have addressed global competitiveness of U.S. industries. These have highlighted cross-sectoral relationships prevailing in such arrangements as the Japanese keiretsu. Keiretsu relationships of Japanese firms span a variety of industry and banking sectors.

Finally, a multilateral agreement also offers the best chance of ensuring that operators of U.S.-flag vessels are able to acquire and repair their vessels on the world market at internationally competitive prices -- just as their foreign competitors do.

We understand that the negotiations have proven complicated and difficult. In part, of course, this is because the USTR is pursuing a meaningful agreement as sought by the Shipbuilders Council of America -- an agreement that would restrict subsidies for shipbuilding far more than for other industries. Despite the frustration of awaiting a resolution of those talks, it is far better to bring the international negotiations to a successful conclusion than to precipitate the unnecessary confrontation and confusion that would result from enactment of domestic, sector-specific, unilateral legislation.

H.R.1402 WOULD SIGNIFICANTLY HURT VESSEL OPERATORS AND DISPROPORTIONATELY DISADVANTAGE THE AMERICAN MERCHANT MARINE

The bill's sanctions are applied within Department of Commerce discretion. Presumably the objective of the legislation is to limit subsidies paid by foreign governments to their shipbuilders. The legislation forces the U.S. to penalize offending foreign governments or foreign shipyards. Thus, the bill would force the U.S. to impose sanctions on vessel operators of the offending countries.

It is the foreign governments with all the complexity of each government's finance ministry that are the entities properly responsible for their subsidy practices to their respective shipyards. Research, investigation and rigid administration of sanctions against shipowners and their governments will surely be disruptive and extremely costly to American foreign commerce.

We would note, moreover, that if a more flexible penalty scheme were used, the sanctions also would be more effectively aimed at the most actively subsidizing foreign governments. Most major shipbuilding is done in only a few countries. H.R.1402 should be redesigned to flexibly address unfair trade practices, and permit the imposition of sanctions in a way that does minimal damage to other American industries and interests, especially our nation's overall international trade.

Under H.R.1402 it is not clear that the extension of U.S. countervailing duty and antidumping laws to vessels built or repaired overseas <u>was to be prospective only</u>. It is entirely possible that this provision would apply retroactively to vessels already afloat and in service because if they had benefitted from construction subsidies, then according to the Department of Commerce methodology, it is entirely likely that the benefit of those subsidies would be spread out over many years and once the vessel called a U.S. port after enactment, domestic shipbuilders would be able to bring an action.

Finally, enactment of H.R.1402 invites international retaliation. Foreign governments may well act against perceived "subsidized" U.S.-built vessels that have benefitted from federal programs, perhaps even from construction programs that are no longer in effect. Certainly foreign retaliation would be a very real threat to Jones Act-qualified operators. Moreover, it is quite possible that foreign governments would take action not only against U.S. shipyard direct subsidy programs, but U.S. indirect assistance programs as well.

H.R.1402 WOULD DISRUPT TRADE AT AMERICA'S PORTS

As we've explained earlier, under H.R.1402 certain vessels would be subject to penalty based on whether the country of registry or the country of nationality of the vessel owner knowingly or unknowingly grants subsidies. The way vessel operators, and especially container lines, run their business today is with fixed, definite schedules to which they must strictly adhere. A delay of a few hours, or a weekday, as a result of these penalties may not sound like a lot -- but it would wreak havoc with efficient ship operations and cause immediate losses of many millions of dollars.

As a result, America's ports would be adversely affected. After all, the ports live or die on commerce flowing through them.

H.R.1402 WOULD SEVERELY HARM AMERICA'S EXPORTERS AND IMPORTERS

The bill would directly raise the cost of goods shipped to and from the U.S. -- harming America's exporters and flow of trade. As the USTR has recognized, this would mean American businesses and consumers would be punished for foreign subsidies, rather than the offending foreign government and shipyard.

The bill would raise shipping costs for two reasons. First, given the sanctions applied to ship operators, many will choose not to serve the U.S., thereby reducing the supply of ships and increasing rates. Second, the payments required to be made by ship operators who do call at U.S. ports would have to be passed on to American exporters and importers as a cost of doing business.

In addition to raising costs, the USTR has confirmed that foreign governments would likely retaliate against American exports of agricultural and other foods in response to unilateral U.S. action. It is easy to understand why foreign countries would retaliate, given the continued existence of U.S. laws that significantly benefit domestic U.S. shipbuilders. Congress also has under consideration additional programs of government assistance to U.S. shipyards.

CONCLUSION

Foreign shipbuilding subsidies should not be condoned. The correct approach to addressing such subsidies is through a legislative framework that penalizes offending foreign governments and shipbuilders, <u>not</u> shipowners, ship operators, ports and American exporters and importers. To the extent unilateral action is deemed necessary, then it should be free of the CVD/AD penalties on U.S. ships and U.S. owners. A successful remedy should focus on the nation's refusing to halt the grant of subsidies to their shipyards.

Respectfully Submitted

American Institute of Merchant Shipping

AIMS MEMBER COMPANIES

AMERADA HESS CORPORATION

AMERICAN OVERSEAS MARINE CORPORATION

AMERICAN PRESIDENT COMPANIES, LTD.

AMOCO TRANSPORT COMPANY

ARCO MARINE, INC.

BP OIL SHIPPING COMPANY, U.S.A.

CHEVRON SHIPPING COMPANY

COSCOL MARINE CORPORATION

CROWLEY MARITIME CORPORATION

EXXON SHIPPING COMPANY

FARRELL LINES INCORPORATED

HVIDE SHIPPING INCORPORATED

INTEROCEAN MANAGEMENT CORPORATION

MAERSK LINE, LIMITED

MOBIL OIL CORPORATION

MORMAC MARINE TRANSPORT, INC.

OMI CORP.

OSG BULK SHIPS, INC.

PHILLIPS PETROLEUM COMPANY

SEA-LAND SERVICE, INC.

SUN TRANSPORT, INC.

TEXACO

UNOCAL CORPORATION

Chairman GIBBONS. Shippers for Competitive Ocean Transportation.

STATEMENT OF H. GEORGE MILLER, EXECUTIVE DIRECTOR, SHIPPERS FOR COMPETITIVE OCEAN TRANSPORTATION

Mr. MILLER. Thank you, Mr. Chairman. My name is H. George Miller. I am the executive director of Shippers for Competitive Ocean Transportation, which we refer to as SCOT.

The industries I represent directly account for over 60 percent of all U.S. liner exports and for large volumes of imports. I am sure these comments reflect the views of the overwhelming majority of all U.S. shippers, large and small, exporters and importers.

Shippers sincerely appreciate this opportunity to express their views to this committee. Shippers fully support the objective of H.R. 1402 and of S. 990 to find a way to eliminate the subsidies of shipbuilding and ship repair that distort the world market and may, and we emphasize may, in the future, limit the ability of U.S. shipyards to compete for shipbuilding contracts and ship repair contracts.

We understand the frustration of the negotiators and of the Congress from the slow progress of multilateral negotiations. However, unilateral action as contemplated in H.R. 1402, title II, will severely limit the ability of U.S. exporters to compete in the world markets.

Those who will be responsible for implementation of H.R. 1402 must impose one of two penalties on all vessels that are owned or that are flagged in the countries who are placed on the blacklist by the Department of Commerce.

We estimate that over 75 percent of the world fleet is likely to be blacklisted under the terms of H.R. 1402. U.S. shippers are completely dependent on that fleet to move 96 percent of all U.S. international trade.

The Secretary of Commerce then will face a catch-22 decision: If the Secretary assesses penalties of $500,000 or more for each outbound and each inbound voyage of a blacklisted vessel, that penalty will almost immediately be reflected in the U.S. freight rates.

It will result in the loss of billions of dollars of U.S. export sales.

If, on the other hand, the Secretary chooses the mandatory alternative of reducing sailings of these vessels by 50 percent, there is no way U.S. exports and imports can be moved.

When the United States acts unilaterally, our rates increase and/or our service is severely reduced while the rates and the service from other countries are not affected. Any retaliatory action, even in a single major trade route, will cost the U.S. export sales, will cause the loss of export jobs, and will increase our already unacceptable, unfavorable balance of payments.

That is why a multilateral solution, though difficult, is essential.

In the written text which I submit for the record, I document the basis for estimating that the total number of export jobs related to the efficient maritime movement of U.S. international trade. A significant part of our $448 billion of exports in 1992, moved across the border to our major trading partners, Canada and Mexico.

A surprising amount of the dollar value moves by air, but 38.5 percent in 1992 moved by water. That represented $172 billion of export sales.

The jobs related to these export sales are approximately 3 million U.S. jobs. The U.S. fleet has the capacity to move only a small portion of that cargo. So the U.S. shipper must have economic access to the world liner fleet in every major trade route and to the world bulk fleet.

In the text I emphasize the critical importance of the world bulk or the world charter markets to the U.S. oil companies for imports and to the export of automobiles and trucks, chemicals, coal, forest and paper products and agricultural products. Except for coal, all of these export industries use both liner vessels and bulk or charter vessels.

The United States has flag capacity to move less than 1 percent of the international bulk imports and bulk exports and much of that capacity is committed to Jones Act trade. While there is some additional U.S. controlled capacity, it could not move even 10 percent of our bulk needs.

I cannot overemphasize the chaos that enactment of H.R. 1402 would create in the world charter markets. The five industries noted above account for $145 billion of exports, and there are over 2 million jobs related to those exports vitally dependent on the world charter market and the world bulk fleet.

Disruption of the charter markets would place hundreds of thousands of those jobs at risk.

The Maritime Administration kindly did some studies for SCOT to project the percent of the world fleets of specialized carriers used by the above industries that would be blacklisted. Using very conservative estimates of the countries blacklisted, it is apparent that over 50 percent of these specialized fleets will be blacklisted. That would apply to the liner fleet in total and to the chemical parcel fleet particularly.

Our own data, which includes much later data on shipyard and ship repair subsidies, would indicate that these percentages of specialized fleets that are indispensable to movement of our exports would be in the order of 75 percent.

Shippers support the arguments for deleting title I by other members of this panel. It will virtually guarantee retaliation against U.S.-flag carriers and U.S. exports. We are also aware of comments that the American Association of Port Authorities have made. They note some of their most serious problems are with the specific wording of H.R. 1402 in terms of its damage to U.S. ports and to U.S. exports. However, even with the changes which they made, which are very important, the United States would be relying on unilateral action in a vital service area to deal with deep-seated problems in an industrial area. U.S. exports would suffer.

When I was young it was accepted that parents disciplined children when they were bad. Often the father would comment to the errant child, this will hurt me more than it will hurt you. I am not sure I believed it at the time, but I guarantee you that enactment and implementation of H.R. 1402 and retaliation against carriers essential to U.S. international trade will hurt the U.S. economy far

more than it will hurt the countries who subsidize shipbuilding and repair.

While fines are assessed against a ship owner, it is the U.S. importer and exporter that will pay that fine.

H.R. 1402 allows no margin for administrative judgment in implementing penalties. This rigid enforcement assures damage to U.S. shippers and will invite retaliation.

Consider one example for a moment: There has been a historic tie between the United States and Poland since revolutionary times. Congress applauded when President Lech Walensa of Poland spoke to them and that applause reflected our entire country's very deep support for Poland's fight for freedom and for democracy.

There is no question that Poland would be on the blacklist and that Polish ocean lines, already struggling for survival in the competitive transatlantic market, could be forced into bankruptcy by that black listing. Poland can build ships and Poland can provide shipping services to United States and Polish shippers.

These industries can provide income to help Poland's transition to a democratic free enterprise society. Does Congress really want to mandate the destruction of the Polish hopes to build ships and to destroy a functioning shipping service?

The definition of subsidy is so broad in H.R. 1402 that if the Secretary of Commerce wants to enforce a precise legalistic definition, we believe every shipbuilding and every ship repair country can be placed on the blacklist. No reality check is demanded, either that the subsidy has economic significance or that it does, in fact, hurt U.S. shipyards.

I feel Congress will want flexibility to use sound administrative judgment in administering this law. The Fair Shipping Practices Act, which also places U.S. trade at risk, has worked because the Federal Maritime Commission has this flexibility and has used that flexibility wisely to the benefit of U.S.-flag carriers without harming U.S. shippers.

Our final deep concern is that enactment of H.R. 1402 and indeed the elimination of all world shipyard subsidies is not likely to add a single job at U.S. shipyards in the near future. Our arguments are based on the International Trade Commission study for this committee.

Our members are engaged in the hands-on negotiation of transportation contracts throughout the world, and many are active in shipbuilding and ship repair. All of these knowledgeable people agree that the ITC report regarding current competitiveness of U.S. shipyards is accurate.

Elimination of subsidies is a desirable goal that we support as a long-range objective. However, we cannot support legislation that will place at immediate risk hundreds of thousands of U.S. export jobs and the loss of export sales that we vitally need and for which our members are facing tough international competition everyday.

We respectfully request that you weigh the needs of the U.S. industry and the U.S. economy against the marginal benefit to a single industry and not report H.R. 1402 to the House for action.

Thank you very much. I will be glad to answer any questions.

Chairman GIBBONS. Thank you, Mr. Miller.

[The prepared statement follows:]

COMMENTS ON HR-1402 FOR SCOT, SHIPPERS FOR COMPETITIVE OCEAN TRANSPORTATION BEFORE THE TRADE SUBCOMMITTEE, WAYS AND MEANS COMMITTEE, U.S. HOUSE OF REPRESENTATIVES, JULY 1, 1993 BY H. GEORGE MILLER, EXECUTIVE DIRECTOR FOR SCOT

SCOT, Shippers for Competitive Ocean Transportation, is composed of a representative cross section of major U.S. exporters and importers of products in bulk, in packages and in containers. The associations represented by SCOT are composed of companies that account for over 60% of U.S. liner exports and for a substantial volume of imports. The companies and associations represented by SCOT strongly oppose passage of HR-1402 as implementation would make U.S. exports less competitive in world markets.

Shippers will support constructive efforts to eliminate subsidies of shipbuilding and ship repair. However, we feel this issue must be resolved in a manner that does not place U.S. exporters at a disadvantage. Only if this problem is resolved by multilateral agreement will ocean rates on U.S. exports remain competitive with rates from other producing countries.

HR-1402 relies on massive and inflexible retaliation against vessels owned by countries who subsidize shipbuilding and repairs and/or vessels who fly the flag of those countries. According to Maritime Administration (MARAD) data, the total world fleet of ships over 1,000 deadweight tonnage (dwt.) consists of 23,755 vessels of which 603 (2.5%) were U.S. owned. SCOT did a preliminary estimate of the percent of the world fleet that would be "blacklisted" under HR-1402 based on ownership. This study indicated that between 70 and 80% of the dwt. of the world fleet could be subject to blacklist under HR-1402. Since additional vessels will be added to the blacklist because of flag and additional countries may be added to the blacklist by the Secretary of Commerce after investigation, the percentage could be larger.

At SCOT's request, MARAD attempted to develop preliminary estimates on specialized fleets critically important to U.S. exporters and importers. MARAD used published 1988 subsidy data. There are many countries that are likely to be added to MARAD's preliminary blacklist as more current and complete subsidy data is available that covers subsidies on both ship repair and shipbuilding. Whereas SCOT's private data indicates 29 of the top 36 ship owning nations could be blacklisted, the MARAD data includes only 10 of these top 36, plus 4 of the smaller ship owning nations. A summary of these studies is included in Attachment I to this report and the complete SCOT report is on file with the Trade Subcommittee. The MARAD data is available to committee staff from MARAD. The MARAD data on specialized fleets is understated as documented in Attachment I.

Title I would treat import of transportation service on a vessel built or repaired with a foreign subsidy as equivalent to importation of that vessel. The offering of service with capital equipment is not importation of that equipment. There is no international precedent or rational to treat services as merchandise. Title I should be eliminated.

If significant fines are assessed, U.S. exporters would lack economic transportation to many world markets. If sailings to U.S. ports are reduced 50%, as alternatively required in HR-1402, or if vessels are withdrawn from U.S. service to avoid excessive fines, U.S. shippers would lack capacity to move product to many markets. There is little doubt the fines of a minimum of $500,000 for each outbound and inbound voyage would be passed on to U.S. exporters and importers. The primary penalty falls on U.S. shippers, not the countries subsidizing shipbuilding. Since this would substantially increase the freight cost for U.S. exports while rates from all world

competitive producers would remain unchanged, passage would place at risk hundreds of thousands of jobs in U.S. export industries.

The increased cost of transportation and the withdrawal of vessels from U.S. service would be particularly damaging to bulk shippers. Freight is a substantial part of the delivered cost of exports like grain, forest and paper products, coal, fertilizers and chemicals. These markets are highly competitive and thousands of jobs in these industries would be lost.

The United States is dependent on imported oil to supply 45% - 50% of its crude oil requirements. The increased cost of tanker rates would increase the cost of energy for all U.S. industry and would hit U.S. transportation and agriculture industries particularly hard. It would be inflationary.

The United States has two serious problems that have a long term adverse impact on our economy. One of the problems, the federal deficit, has gained much attention this past year. Equally critical is our continuing imbalance of international payments. Legislation that limits the ability of U.S. industry to compete for world markets will increase our already unacceptable unfavorable trade balance. Congress must weigh the impact of HR-1402 on exports and loss of jobs in the export industries, on the cost of living and on our international balance of payments. These negative effects must be balanced against the assumed benefits to a single specialized industry.

The MARAD study indicates that there were 4,806 tankers in the world fleet of which 434 were U.S. owned. Of the 4,372 foreign owned tankers, it was estimated at least 1,545 (35.3%) would be blacklisted. As noted, SCOT data indicates this MARAD estimate is very low. The U.S. petroleum industry employs this world fleet under a complex system of charter arrangements with charters ranging from single voyages, to contracting for use of a vessel for periods of up to 5 to 10 years. It is also common practice to contract use of many vessels in an owner's fleet over an extended period to move a specific tonnage of cargo. Enactment of HR-1402 would seriously disrupt these complex charter arrangements. The cost of fines would, in most cases, accrue immediately to U.S. oil companies. Even more serious would be disruption of the free market. Some owners would refuse to make their vessels available, or may be required to reduce sailings to U.S. ports. This would result in a two-tiered tanker market with much higher rates for the vessels that could serve U.S. trades. Only the U.S. would experience these higher costs. A similar situation would occur in the dry bulk markets critical to U.S. agriculture and industry.

The U.S. chemical industry accounted for $44 billion in U.S. exports in 1992. A substantial volume of these chemical exports moved to world markets on chemical parcel tankers. The MARAD study indicates 49.8% of the specialized world chemical tanker fleet would be blacklisted under HR-1402. Typical chemical cargoes range from 100 to 1500 tons, are sensitive to contamination and may require specialized piping, pumping and venting systems. Many of the chemical tankers operate in round the world services and may deliver U.S. cargoes to ports in over 10 countries on a given voyage. These vessels can operate economically only when they can freely pick up and deliver cargoes at ports throughout the world. Blacklisting these vessels would result in their removal from U.S. trades or to the assessment of substantially higher rates to U.S. shippers. Many of the present U.S. bulk chemical markets would be lost to U.S. exporters.

In 1992, the forest and paper industry accounted for $17 billion of U.S. exports. While many of the higher value products move on liner vessels in containers the lower valued pulp, paperboard and forest products move under charter in specialized large open

hatch dry bulk vessels. MARAD is in the process of analyzing ownership of some 463 of these vessels that serve the U.S. forest and paper industry. The estimate of percent potentially blacklisted is not yet available, but will be provided later. Enactment of HR-1402 would make the U.S. industry less competitive and place at risk 115,000 U.S. direct forest and paper industry jobs. This does not include a substantial number of supporting industry jobs, or the jobs in transportation and ports associated with the export of these products.

In 1992, U.S. coal exports amounted to $4.2 billion. This product moves exclusively on vessels of the world bulk fleet and freight is a significant part of the delivered cost of coal. In addition, much of the coal is purchased f.o.b. U.S. ports with the buyer arranging freight. Countries like Brazil and Japan use their own flag and/or chartered vessels for movement of coal. Under HR-1402 all vessels of Brazilian or Japanese flag or ownership would be blacklisted and would have to reduce sailings and/or be subject to severe fines. This would encourage countries buying U.S. coal to buy their coal in other countries where fines and restrictions do not apply. Enactment of HR-1402 would place 20,000 coal miner jobs directly dependent on exports at risk. In addition thousands of jobs in rail, barge and truck transportation of export coal and in port and terminal facilities would be lost.

In 1992, exports of agricultural products amounted to a $33 billion. While much went on liner vessels, the major volume was shipped on bulk vessels. Historically maize, wheat and feedstuffs have regularly been on the list of the top 40 U.S. export items based on three digit export codes. All three of these move primarily in bulk and are low value products, where freight is a substantial percentage of the delivered cost. World markets are highly competitive. Enactment of HR-1402 would limit export markets for agricultural products and place at risk 825,000 jobs in U.S. agriculture, as well as jobs related to transportation, storage and handling of these products at inland points and in ports.

Exports of automobiles and parts amounted to $46.6 billion dollars in 1992. Exports of the three major U.S. based automobile manufacturers of passenger cars and commercial vehicles from U.S. and Canadian plants increased over 46% from 1990 to 1992. MARAD is attempting to develop data on blacklisting of the specialized car carrying fleet. Data will be given to the committee staff when it is made available. Limited availability of that specialized fleet for U.S. automobile producers could seriously restrict their ability to maintain and increase their share of the world market, just as they are making important progress to expand their market. The U.S. automobile industry is also very dependent on the liner services for movement of assembled units, so called "knocked down" units and for movement of critical parts and subassemblies. Interruption of the liner services and/or increases in liner rates could seriously disrupt U.S. production lines and add to costs and to loss of time by the U.S. assembly line work force.

The United States was dependent on the world liner fleet to move over 83% of its liner movements for export and import in 1992. The MARAD study indicates that over 50% of the vessels in the world liner fleet would be subject to blacklisting under HR-1402. We believe this MARAD estimate is low. Reduction of the availability of this liner fleet, or increased cost of freight for U.S. exporters, would seriously restrict the ability of the thousands of U.S. exporters, large and small, to compete in world markets. It is important to recognize that the world liner market is not a group of ships that simply move cargo between two ports. It is an extremely complex logistics system that supplies millions of specialized containers for shippers at inland points throughout the world and moves those containers to inland points

in the destination country. Refrigerated containers are required for some agricultural and industrial products. Highly specialized tanks are supplied for chemicals and vegetable oils, all moved from origin to destination by the liner companies. Over time the individual liner companies and/or conferences have developed markets that permit them to move a substantial number of containers loaded in both directions. A very significant volume of liner tonnage moves under service contracts that guarantee specific services and rates to shippers for periods of a year or more. This permits U.S. exporters to bid on business for extended periods and to guarantee deliveries to inland points throughout the world with a commitment from a carrier on service and rates. Any interruption to this complex system on a major trade route or a significant cost increase will severely restrict U.S. exports.

U.S. importers are also dependent on this liner system and often the imports provide return hauls for export containers and permit the carriers to provide both services at reduced rates. U.S. retail companies are dependent on reliable through liner service to move seasonal merchandise to their markets precisely when needed. HR-1402 would increase the cost of imports. If service is reduced by high cost, elimination of vessels from service or by retaliation against U.S. flag vessels, our merchandisers can lose millions of dollars by failure to receive seasonal merchandise in time. Consumers will pay increased prices.

Total U.S. exports in 1992 amounted to over $448 billion. The following industries have been noted above and are primarily dependent on marine transportation to move their products to world markets. These industries account for exports and jobs as follows:

	EXPORTS $ BILLION	ESTIMATED DIRECT EXPORT RELATED JOBS	
AUTOMOBILE INDUSTRY	47	940,000	(1)
CHEMICAL INDUSTRY	44	159,000	(2)
COAL INDUSTRY	4	20,000	(2)
FOREST AND PAPER INDUSTRY	17	115,000	(2)
AGRICULTURE	33	825,000	(1)
TOTAL	145	2,059,000	

(1) General estimate of 20,000 jobs per $1 billion exports for higher valued automobiles and 25,000 jobs per $1 billion exports for lower valued agricultural products.

(2) Based on specific data developed by each industry on direct jobs in manufacturing or mining.

The above table projects the number of jobs directly related to production of the products exported. Each of the five industries move significant volumes of their exports under charter on specialized fleets of vessels. All except coal also move substantial volumes of exports on liner vessels.

The above table does not account for the additional $303 billion of exports in 1992 and the jobs related to marine movement of those cargoes.

The Department of Commerce has analyzed the number of total jobs involved in each billion dollars of exports and published data for the period 1980 to 1987 and updated the estimates for 1990.

For all sectors of the economy the number of jobs per billion dollars of exports declined from 26,900 in 1980 to 23,600 in 1985 to 19,1000 in 1990. If we continue the downward trend to 1992 we would estimate 18,000 jobs per billion dollars of exports. Of the $448 billion of exports in 1992, 38.5% or $172 billion moved by vessel. If we assume 18,000 jobs per billion dollars of marine exports there would be 3,105,000 jobs at risk if HR-1402 is passed.

Obviously not all of the above jobs would be at risk as 20 to 30% of the world fleet may not be subject to blacklisting. Of these, some countries may enter into agreements to discontinue subsidies. It is apparent that the impact of this bill will be extremely damaging to key industries and to the U.S. economy.

Enactment of HR-1402, and unilateral action against the world fleet that moves over 96% of our international maritime trade, would materially reduce U.S. exports and would result in the loss of hundreds of thousands of jobs in U.S. basic industries, in transportation and in U.S. ports. It will increase our already unacceptable unfavorable trade balance.

We also respectfully request that Congress carefully consider the study completed by the International Trade Commission (ITC) to determine the impact of passage of the last years shipbuilding bill, HR-2056, on the U.S. economy and on the U.S. shipbuilding industry. The impact of HR-1402 would be more severe. This study found that U.S. shipbuilding costs have been approximately double world shipbuilding costs throughout the 1980's and for the last commercial cargo ship completed last year. The ITC estimated that the subsidies of shipbuilding by the major producers of vessels for the world market ranged from 5% to 25% of the market price and averaged less than 10%. The ITC study concluded that since U.S. costs are double world market prices, the elimination of subsidies in the 5% to 25% range would not make the U.S. shipbuilding industry competitive. Enactment of HR-1402 could result in severe damage to U.S. export industries and loss of jobs in those industries, while providing no real help for the U.S. shipbuilding industry.

Initially it was argued that enactment of severe retaliatory legislation like HR-1402 would immediately force other countries to enter into bilateral agreements of multilateral agreements to eliminate shipyard subsidies. We believe that it is unlikely to occur because the rigid requirements for such agreements in HR-1402 are considered unreasonable by many of the major shipbuilding countries. Many of the countries have invested billions of dollars in those industries and have large labor forces committed to building of ships for the world market. Other countries would be particularly reluctant to meet the U.S. requirements while the U.S. refuses to put similar U.S. protectionist measures on the negotiating table. The U.S. completely prohibits foreign competition for the building of vessels for the Jones Act trades and for military vessels. The U.S. imposes a 50% duty on repairs abroad for U.S. flag vessels. Many countries are more likely to retaliate against U.S. flag carriers and U.S. exports than to acquiesce to the U.S. demand to eliminate shipyard subsidies.

The argument is also made that administration of HR-1402 would be similar to the Fair Shipping Practices Act (FSPA), in which the Federal Maritime Commission is empowered to retaliate against foreign flag carriers of countries who unfairly restrict U.S. maritime commerce under Section 19, or who impose restrictions on U.S. flag carriers on their intermodal operations within the trading partner's borders. Several Federal Maritime Commission (FMC) dockets have been filed under the FSPA and several are in progress. Under the FSPA, the FMC has the right to impose fines <u>up to $1,000,000</u> per voyage. This legislation has been enforced over the years with little or no interruption of maritime trade.

It involves sensitive issues because we are dictating how other countries must treat intermodal operations within their borders. We require that they must allow U.S. carriers the same freedom to operate berths, container terminals and trucking lines that the U.S. allows their carriers within the U.S. Since we impose almost no restrictions, our trading partners are often required to change their internal rules to accommodate U.S. flag carriers. So far the threat of penalty has resulted in the ability to work out compromises that permit U.S. flag carriers to compete without actually imposing fines or restrictions on the carriers of the offending country.

The assumption that HR-1402 would not interrupt trade by comparison with experience with FSPA is inappropriate for the following reasons:

1. Under FSPA the FMC has flexibility to impose limited fines and under Section 19 procedures to withhold implementation of penalties. They can consider the impact on the U.S. economy. HR-1402 allows very limited administrative judgment.

2. The FSPA deals with individual countries on the merits of each situation. HR-1402 fires a shotgun blast at the whole world and requires immediate action against all presumed offenders. It will create chaos for shippers.

3. U.S. demands on other countries under FSPA are fair. We ask only the rights that we have freely given to all countries' carriers. Under HR-1402 we demand immediate elimination of foreign subsidies of shipbuilding and repair and retain extensive protection for our own industry. Massive retaliation is probable.

4. We believe there is great danger in trying to use retaliation against services vital to all U.S. shippers to deal with an industrial issue like shipbuilding. Often the solution of the industrial issue is more complex and can better be dealt with by taking action in the industrial area.

5. The FSPA actions protect U.S. carriers who have an equity in finding reasonable solutions, as they must live with and market products in the trading partner's country and would be severely damaged by retaliatory action. U.S. shipyards are not hurt if there is damage to U.S. commerce.

6. The FMC has a long history of dealing with service problems in the maritime industry and an experienced staff to deal with complaints in a fair and orderly way. The Department of Commerce lacks staff to effectively implement HR-1402 in a prompt, fair and thorough manner. The FMC has flexibility to use threats to encourage solution and have exercised good judgement in applying pressure and balancing carrier needs with the needs of the economy. HR-1402 limits administrative flexibility.

7. FSPA deals with real injuries to the U.S. carrier industry. HR-1402 has no reality test - a requirement that the subsidy of a given country does, in fact, damage the U.S. shipping industry. Severe damage can occur to the U.S. economy in the pursuit of phantoms.

In the findings section of HR-1402, it is implied that foreign subsidies have resulted in the loss of 180,000 jobs in U.S. shipyards and in the reduction of the number of commercial vessels under construction from 70 in 1978 to 1 in 1992 (currently 0). The International Trade Commission study confirmed that U.S. yards have not built a commercial vessel for the world market since 1960. We cannot lose jobs in U.S. yards because of loss of a market in which we have not participated for 33 years. The loss of U.S. shipyard jobs resulted from a cutback of military spending, the decision by the U.S. not to subsidize at 100% vessels for U.S. flag companies operating in

international trades, and the high cost of building vessels for the Jones Act trade that is completely protected for U.S. shipyards. One may theorize that without subsidies the U.S. yards, at some point, might be competitive on a few specialized vessels. There is much hard evidence that they have not been competitive and removal of all foreign subsidies would not, in itself, make them competitive. Even with all of our subsidies and other support, they are not likely to be competitive in the world market in the near future.

In summary, U.S. shippers and U.S. industries oppose passage of HR-1402, as it would do irreparable damage to U.S. export industries, will increase our unfavorable trade balance and is unlikely to provide any real benefit to the U.S. shipbuilding industry.

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Attachment 1. Summary of MARAD Study on Blacklisting of World Fleet Under HR-1402

ATTACHMENT I. PROJECTION OF THE PERCENT OF THE WORLD FLEET THAT COULD BE BLACKLISTED UNDER HR-1402

Because of the potential critical impact on U.S. international trade, SCOT has attempted to develop preliminary estimates of the percent of the world fleet and of the specialized fleets critical to U.S. shippers likely to be blacklisted under HR-1402.

A preliminary estimate by SCOT was included in a letter by SCOT to DOT Secretary Pena and it has been filed with the House Ways and Means staff. Members of the coalition active in evaluating HR-1402 are active in the construction and repair of vessels in all major shipbuilding and repair nations. Based on their knowledge of the trade, the major shipbuilding countries likely to be blacklisted were identified. It was believed that at least 29 of the 35 largest ship owning countries would be subject to blacklisting and these countries accounted for 81% of the vessels in the world fleet and 76% of the world deadweight tonnage (dwt). Ownership was based on 1991 data in an UNCTAD study which has also been filed with the Ways and Means staff. Since vessels may be blacklisted by either ownership of a country on the Department of Commerce blacklist or on the flag of those countries, this estimate is probably conservative.

The Maritime Administration (MARAD) had completed a study of operating subsidies and published data on world subsidies in 1988. They are completing updating of that subsidy data and have included more data on shipbuilding subsidies by the major shipbuilding countries. MARAD plans to publish an updated report later this year. MARAD has access to current ownership data on the world fleet in the Lloyds data base used in the UNCTAD report upon which SCOT's estimates were made. MARAD agreed to attempt to develop for SCOT members additional data on specialized fleets important to U.S. shippers. After investigation MARAD concluded it would be inappropriate to use current subsidy data that had not been completely verified and approved for publication, so their data is based only on the published shipbuilding subsidy data in their 1988 report. Preliminary data from the MARAD studies was included in this written testimony where it was available. Additional data will be submitted as it becomes available. While SCOT included 29 of the 35 largest ship owning countries on their blacklist, MARAD included only 10 of these major countries plus 4 of the smaller ship owning countries. MARAD did not include the communist or former communist countries. They did not include all of the countries who participated in the OECD shipbuilding negotiations which must be blacklisted under HR-1402. In most cases MARAD had no subsidy data on shipbuilding in the countries that SCOT included and MARAD did not. We believe the SCOT estimates are as accurate as can currently be made and that the MARAD data understates the percentage of the specialized fleets that will be affected.

Since accurate data cannot be developed until final wording of a bill is decided in Congress and the key definitions interpreted by the Department of Commerce, any projections on the blacklist are educated guesses only. It seemed desirable that any preliminary U.S. government projections on the countries that might be subject to blacklist not be published, as they could create serious problems for the owners of those vessels and are based on old and incomplete data. Data on the MARAD projections can be made available to the Ways and Means staff by MARAD.

The projections clearly indicate a major portion of the fleet upon which U.S. international trade depends is likely to be subject to blacklist. Over half and possibly as much as 80% of the specialized fleets may be subject to blacklist. While one may question specific percentages, it is apparent the impact of HR-1402 on U.S. international trade could be severe.

H. George Miller

H. George Miller
Executive Director SCOT

SCOT

Shippers for Competitive Ocean Transportation

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April 19, 1993

The Honorable Federico Pena
Secretary of Transportation
U.S. Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590

Dear Mr. Secretary:

SCOT, Shippers for Competitive Ocean Transportation, represents major U.S. importers and exporters on certain maritime issues and provides a shipper observer at key international maritime negotiations. The shippers represented by SCOT account for over 60% of all U.S. liner exports. SCOT also represents major bulk importers and exporters and major liner importers.

SCOT has been an active participant in a coalition coordinated by AIMS that has expressed its opposition to certain proposed shipbuilding legislation in the 102nd and 103rd Congress, particularly HR 1402 recently introduced in the House. SCOT was one of the broad based groups of maritime interests who supported the position of the coalition letter to you dated April 7 , 1993.

Since that letter was sent, SCOT has been working with the Maritime Administration and other maritime interests to quantify the severe adverse impact of HR 1402 and similar legislation on U.S. exports and imports.

A 1988 MARAD report on maritime subsidies, which we understand is being updated, confirms our belief that HR 1402 would require placing virtually every major maritime nation that builds of repairs ocean vessels on the "blacklist" required to be established by the Department of Commerce. While ownership of an individual vessel is often difficult to determine reports by UNCTAD and other sources clearly indicate that over 70% of the world fleet could be subject to severe fines for every voyage made to the United States. These fines would be immediately passed on to U.S. exporters and

importers and would add significantly to the freight cost of all U.S. maritime exports. More importantly, many carriers may discontinue service to U.S. ports greatly restricting the ability of U.S. shippers to move their products. Since only the United States would impose these severe penalties on carriers, U.S. exports would become uncompetitive in world markets and hundreds of thousands of jobs would be lost in export industries, particularly markets for lower valued bulk commodities like grain, coal, basic chemicals, fertilizers and forest products. The freight cost on U.S. oil imports would increase significantly and this would add cost to all U.S. industry and agriculture. Increased energy cost would impact on all transportation.

While shippers are sympathetic to the problem of shipyard subsidies, we respectfully submit that unilateral action by the United States that renders U.S. exports non-competitive in world markets is not an acceptable U.S. maritime policy. We urgently request that you seek other solutions in drafting the U.S. maritime policy for your Administration.

While our primary concern is that unilateral action requiring severe penalties on the fleet that moves over 95% of U.S. world trade would be devastating to the U.S. economy, we also respectfully submit that the current draft bills would not solve the problem of shipbuilding subsidies.

A study by the International Trade Commission for the House Ways and Means Committee clearly shows that U.S. shipbuilding costs have been double the cost of construction of similar vessels in world markets for the past 20 years. MARAD has calculated these costs for CDS subsidy purposes through 1984 and the cost of the most recent Jones Act vessel delivered in 1992 was found by the International Trade Commission to be about 97% higher than world competitive prices. Clearly, elimination of current subsidies in the 10 to 20% range would not make U.S. yards competitive. This is the conclusion of the International Trade Commission study and also the belief of the cross section of participants in the coalition who are active in worldwide maritime markets for both construction and operations of vessels.

There is a belief by some that passage of legislation like HR 1402 would result in the elimination of subsidies by major shipbuilding and repair nations. A few countries that are already in the process of elimination of major subsidies may eliminate their remaining subsidies. However, shippers are convinced that many of our critical maritime trading partners will not be bullied by the unilateral action of the United States, but will retaliate against U.S. flag carriers and U.S. commerce. We feel that we would be particularly susceptible to retaliation because the U.S. position on this issue is hypocritical. While we demand use of a very broad definition of subsidies, one rejected by many of the shipbuilding nations, we

continue a wide range of subsidies and protectionist measures on U.S. shipbuilding and repair of the precise type for which we would severely fine vessels of every other shipbuilding and ship repairing nation. Other countries could simply apply our standards to U.S. vessels and fine U.S. flag liner companies and U.S. owned vessels a minimum of $1,000,000 for every round voyage delivering and picking up cargo in their ports.

We urge the Administration not to resort to retaliatory measures on shipbuilding that would severely damage U.S. commerce and that would appear to offer little or no practical aid to the shipbuilding industry. This is an issue of tremendous importance to U.S. shippers, to U.S. commerce and to our need to reduce our unfavorable international trade imbalance.

<u>Attachment A</u> is a preliminary summary of the number of vessels flagged or owned by countries who would most likely be placed on the U.S. blacklist under HR 1402.

Yours truly,

H. George Miller
Executive Director SCOT

Attachment: As Stated

Mr. Warren M. Christopher
Mr Ronald H . Brown
Ambassador Michael Kantor
IMPG (Interagency Maritime Policy Group) contacts
SCOT Steering Committee

ATTACHMENT A

PRELIMINARY SUMMARY OF VESSELS OF MAJOR MARITIME NATIONS THAT WOULD BE SUBJECT TO "BLACKLISTING" UNDER PROVISIONS OF HR 1402

I. COUNTRIES PARTICIPATING IN OECD WORKING PARTY 6, OCTOBER 16, 1991 (NOTE 1) (ALPHABETICAL ORDER)

	TOTAL		DWT-Tons	Rank Based
	No. of Ships	DWT-Tons	National Flag	on DWT-Tons
Australia	96	2,859	2,533	34
Belgium	174	5,911	185	21
Denmark	630	12,691	7,764	11
Finland	172	3,628	790	30
France	263	6,172	2,971	20
Germany	1,143	15,523	6,556	10
Greece	2,579	94,409	41,860	1
Italy	644	11,564	9,900	12
Japan	2,907	82,788	32,951	2
Korea(s)	627	17,775	11,414	9
Netherlands	601	5,176	3,485	26
Norway	1,476	56,773	37,838	4
Spain	426	5,322	4,858	24
Sweden	331	9,060	3,343	16
Switzerland	149	4,369	610	27
Turkey	380	7,579	7,018	18
United Kingdom	925	23,441	5,871	8
Yugoslavia	256	5,209	1,731	25
SUBTOTAL - OECD WP-6	13,779	370,249	181,678	
United States	(1,253)	(61,416)	(18,308)	(3)

II. PRESENT AND FORMER COMMUNIST COUNTRIES (NOTE 2)

Former USSR	4,245	29,813	27,234	6
China (PRC)	1,541	25,915	19,856	7
Romania	330	5,631	5,540	22
Poland	283	3,678	3,653	28
SUBTOTAL	6,399	65,037	56,283	

III. OTHER MAJOR SHIPBUILDING/SHIP REPAIRING COUNTRIES ALMOST CERTAIN TO BE BLACKLISTED (NOTE 3)

	TOTAL		DWT-Tons National Flag	Rank Based on DWT-Tons
	No. of Ships	DWT-Tons		
Taiwan	376	11,477	7,369	13
India	435	10,814	10,204	14
Brazil	257	9,799	9,356	15
Singapore	417	7,039	4,972	19
Philippines	271	3,342	3,240	31
Indonesia	446	3,326	2,354	32
Malaysia	145	2,427	2,156	35
Subtotal	2,347	48,224	39,651	
TOTAL (I, II, III)	22,525	483,510	277,612	
World Fleet	27,731	636,178	342,472	
% of World Fleet	81%	76%	81%	

NOTE 1
HR-1402 requires blacklisting immediately all countries that were parties to negotiating a multilateral agreement as shipbuilding, OECD working party 6 on October 16, 1991, if they in any way subsidize shipbuilding or ship repair. The following countries also participated in the October 16, 1991 discussions as active participants or observers, but are not listed as they were not in the United Nations list of the 35 maritime countries: Austria, Canada, Ireland, Iceland, Luxembourg, New Zealand, Portugal. The European Community was also represented. The United States is shown separately as it participated but is not subject to retaliation under HR 1402. However, retaliation against U.S. flag operators and U.S. owners of foreign flag vessels would severely impact the United States, as we are the third largest maritime nation with 70% of the U.S. controlled fleet not operated under the U.S. flag.

NOTE 2
Communist countries would certainly be subject to blacklisting. Even countries in the process of privatizing certain industries would be subject to blacklist under HR 1402 until the privatization was complete and all government ties severed. Former Yugoslavia is omitted, as it is listed in Section I. Smaller communist maritime nations like Cuba are omitted as ownership data was available only on the top 35 maritime nations.

NOTE 3
Hong Kong is not listed, but may also be subject to blacklisting if it is determined that Hong Kong subsidizes ship repair. MARAD data was not immediately available on Hong Kong's maritime subsidies. Hong Kong is the fifth most important maritime nation on the UNCTAD list – controlling 672 vessels of 32,146,000 but 5% of the world fleet of which 3,886,000 tons operates under the Hong Kong flag.

NOTE 4
Among the top 35 nations, Iran (17), Cypress (23), Kuwait (29) and Saudi Arabia (33) were not included as information on subsidy of shipyards or ship repair was not immediately available. These countries accounted for 350 vessels and 22,378,000 DWT (3.5% of the world total) and some or all will probably be subject to blacklisting.

SOURCE
UNCTAD Report on 35 most important maritime countries. Data is based on Lloyds Maritime Information Services, Ltd. Data is as of December 31, 1991. While definitions of ownership under HR 1402 may differ from those used by Lloyds, this data is the best currently available on ownership and is indicative of the impact of HR 1402 on availability of vessels to U.S. shippers.

CONTRIBUTION OF EXPORTS TO U.S. EMPLOYMENT 1980 - 1987

Prepared by:

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Trade Research Division

Project DTR-014-89

March 1989

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U.S. DEPARTMENT OF COMMERCE
International Trade Administration
Trade Information and Analysis
Office of Trade and Investment Analysis — 482-5415
Wash., DC. 20230

Table 4

U.S. EMPLOYMENT REQUIRED PER BILLION 1987 DOLLARS OF U.S. EXPORTS, BY EXPORTING SECTOR, 1980-87*
(In full-time equivalent jobs)

30% - 31

	Exporting Sector			
	All Sectors	Manufactures**	Agriculture	Other Goods
1980	26,900	25,000	39,900	26,300
1981	26,800	25,100	35,000	25,500
1982	26,600	25,200	34,200	24,400
1983	25,400	23,800	34,400	22,700
1984	24,200	22,700	32,500	21,800
1985	23,600	22,700	30,100	21,400
1986	23,100	22,100	30,500	20,600
1987	22,800	21,900	30,400	20,700
1990	19,100			

* Including jobs in services. Based on exports of domestic merchandise valued f.a.s. port of exportation, including special category exports and undocumented exports to Canada.
** Manufactures coverage is based on SITC 5-9.

1992 17,750

28%

8 3.5%

Table 5

EXPORT-RELATED EMPLOYMENT IN HIGH-TECH AND NON-HIGH TECH MANUFACTURES SECTORS, 1980-87*
(Thousand full-time equivalent jobs)

	Export-Related Manufacturing Jobs			High-Tech Share (Percent)
	Total	High-Tech	Non-High Tech	
1980	3,198	1,032	2,160	32.2
1981	3,107	1,027	2,080	33.1
1982	2,688	936	1,752	34.8
1983	2,345	878	1,467	37.4
1984	2,359	888	1,471	37.6
1985	2,389	900	1,489	37.7
1986	2,416	895	1,521	37.0
1987	2,548	968	1,580	37.9

* Manufactures is based on SITC 5-9. High-tech sectors above are the same as in the so-called Department of Commerce DOC-3 definition, except they also include organic industrial chemicals.

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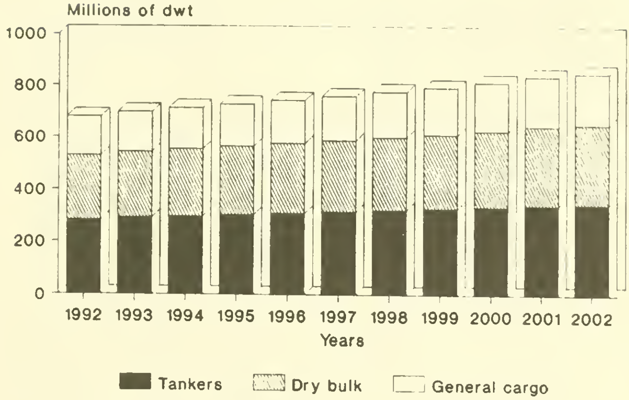
Graph 6

Forecast of world fleet by principal type of vessel, 1992-2002



Source: World Fleet Service.

C. The 35 most important maritime countries and territories

15. Table 5 shows the 35 most important maritime countries in terms of "controlling interest" of the world merchant fleet. The table lists merchant fleets (ships of 1,000 grt and above) by country of domicile which shows the country where the controlling interest of the ships is located in terms of parent companies indicating ships registered under national flags as well as foreign flags.

16. The table indicates that as at end-1991 the controlling interest of nearly 93.9 per cent of the world deadweight tonnage was located in 35 countries and territories. Moreover, shipowners of four leading countries (Greece, Japan, the United States and Norway) controlled 46.41 per cent of the world fleet, while the 10 most important countries and territories controlled 69.14 per cent of world tonnage. For the 20 most important countries and territories, controlling interest reached almost 84 per cent of the world fleet.

17. The table also shows that 47.7 per cent of the fleet controlled by the above-mentioned 35 countries was flagged out, i.e. registered in other countries or territories, at the end of 1991 (46.2 per cent on a world-wide basis). It should be noted that flagging out of merchant ships showed a steady increase during the past three years, both in the 35 most important maritime countries and on a world-wide basis. Thus, in 1989, the deadweight tonnage of vessels registered in other countries or territories amounted to 43 per cent of the fleet controlled by the 35 most important maritime countries (41.5 per cent on a world-wide basis); in 1990 it already stood at 44.2 per cent for the above countries (42.8 per cent on a world-wide bases). 9/ There was no evidence that this trend for flagging out of vessels would stop in the near future.

18. Registration of tonnage under foreign flags is now practised by a large number of developed and developing countries. For certain countries and territories, tonnage registered under foreign flags considerably exceeds that under the national flag. Thus, for Belgium it stands at 96.87 per cent; Hong Kong - 87.91 per cent; Switzerland - 86.04 per cent; Finland - 78.22 per cent; United Kingdom - 74.86 per cent; and for the United States - 70.19 per cent.

Table 5

The 35 most important maritime countries
(as at 31 December 1991) a/

Country of domicile b/	Number of vessels			Deadweight tonnage				
	National flag c/	Foreign flag	Total	National flag	Foreign flag	Total	Foreign flag as percentage of total	Total as percentage of world total
Greece	984	1 595	2 579	41 859 998	52 549 313	94 409 311	55 66	14 84
Japan	1 156	1 751	2 907	32 951 196	49 836 719	82 787 915	60 20	13 01
United States	539	714	1 253	18 307 576	43 108 154	61 415 730	70.19	9 65
Norway	967	509	1 476	37 838 056	18 934 850	56 772 906	33.35	8 92
Hong Kong	70	602	672	3 887 664	28 258 783	32 146 447	87 91	5 05 51 47 d/
Former USSR	4 135	110	4 245	27 233 783	2 579 203	29 812 986	8 65	4 69
China	1 386	155	1 541	19 855 948	6 058 735	25 914 683	23 38	4.07
United Kingdom	438	487	925	5 870 529	17 570 273	23 440 802	74 96	3 68
Republic of Korea	482	145	627	11 414 224	6 361 036	17 775 260	35.79	2 79
Germany	648	495	1 143	6 555 611	8 967 829	15 523 440	57 77	2 44 69 14
Denmark	408	222	630	7 763 652	4 927 169	12 690 821	38 82	1 99
Italy	593	51	644	9 900 320	1 663 541	11 563 861	14 39	1 82
Taiwan, Province of China	195	181	376	7 368 914	4 108 553	11 477 467	35.80	1.80
India	396	39	435	10 203 623	610 144	10 813 767	5.64	1.70
Brazil	252	5	257	9 356 082	443 112	9 799 194	4 52	1 54 77 99
Sweden	196	135	331	3 342 995	5 717 387	9 060 382	63 10	1 42
Iran (Islamic Rep.of)	141	3	144	8 274 363	18 863	8 293 226	0 23	1 30
Turkey	359	21	380	7 017 974	561 281	7 579 255	7.41	1 19
Singapore	263	154	417	4 972 367	2 066 801	7 039 168	29 36	1 11
France	172	92	263	2 971 030	3 201 033	6 172 063	51 86	0 97 83 98
Belgium	45	129	174	185 258	5 726 084	5 911 342	96.87	0 93
Romania	325	5	330	5 539 862	90 709	5 630 571	1.61	0 89
Cyprus	42	25	67	4 096 618	1 259 348	5 355 966	23.51	0 84
Spain	352	74	426	4 858 235	463 882	5 322 117	8 72	0 84
Yugoslavia	71	185	256	1 731 107	3 478 390	5 209 497	66.77	0 82
Netherlands	434	167	601	3 485 137	1 691 181	5 176 318	32.67	0.81
Switzerland	17	132	149	609 944	3 759 080	4 369 024	86 04	0 69
Poland	279	4	283	3 653 251	25 130	3 678 381	0 68	0 58
Kuwait	29	11	40	2 601 496	1 043 566	3 645 062	28 63	0 57
Finland	98	74	172	790 294	2 837 636	3 627 930	78 22	0.57
Philippines	258	13	271	3 239 575	102 196	3 341 771	3.06	0 53
Indonesia	383	63	446	2 353 583	972 768	3 326 351	29 24	0 52
Saudi Arabia	71	28	99	938 263	2 146 162	3 084 425	69 58	0 48
Australia	78	18	96	2 533 225	325 954	2 859 179	11.40	0 45
Malaysia	131	14	145	2 156 286	270 752	2 427 038	11 16	0.38
Total (35 countries)	16 393	8 407	24 800	315 718 039	281 735 617	597 453 656	47.7	93.90
Percentage	66.1	33.9	100	52 8	47 2	100		
World total	18 709	9 022	27 731	342 472 348	293 705 564	636 177 912	46.2	100 0
Percentage	67.5	32 5	100	53 8	46 2	100		

Source Information supplied by Lloyd's Maritime Information Services Ltd (LMIS), London

a/ Vessels of 1,000 grt and above, excluding United States reserve fleet and United States and Canada Great Lakes fleet

b/ The country of domicile indicates where the controlling interest of the fleet is located, in terms of the parent company In several cases, this has required certain judgements to be made Thus, for instance, Greece is shown as the country of domicile with respect to vessels owned by a Greek owner with representative offices in New York, London and Piraeus although the owner may be domiciled in the United States

c/ Including vessels flying the national flag but registered in territorial dependencies or associated self-governing territories For the United Kingdom, British flag vessels are included under the national flag, except for Bermuda (listed in table 6 as an open-registry country) and Hong Kong (shown separately in the present table).

d/ Figures in this column show cumulative totals

D. Open and international ship registers

19. Rapid increase in the number of countries and territories offering open-registry facilities or establishing international or offshore registers with special ship registration conditions available to national and/or foreign shipowners represents an important feature of modern shipping. In 1970, six countries, i.e. Cyprus, Liberia, Oman, Panama, Singapore and Somalia were classified as open-registry countries, [10] while at the end of 1991 the number of open and international registers in accordance with the classification adopted by the International Shipping Federation and Lloyd's of London Press reached 29. [11] Thus, more and more countries take or intensify measures to attract ships to their ship registers. In some cases such efforts are largely directed at retaining ships owned by nationals on the register or re-attracting such ships to the national register, for instance, in the case of the Norwegian International Ship Register (NIS) and the Danish International Ship Register (DIS). Thus, new classifications and terminology have recently emerged such as "traditional", "captive" or "off-shore" registers. The term "international registers" is becoming increasingly used to refer to registers with registration requirements (in particular in relation to taxation, registration and annual tonnage fees and the manning of vessels by non-nationals) which are designed both to attract foreign-owned tonnage and re-attract flagged-out ships owned by nationals.

20. Open and international registry fleets play an important role in world shipping. In December 1991, their combined deadweight amounted to 329.9 million tons which represented about 48.2 per cent of the world fleet. This fleet is mainly concentrated in the five major open-registry countries and territories usually shown as an individual group (Bahamas, Bermuda, Cyprus, Liberia and Panama). They account for 74 per cent of the total open and international registers tonnage. They are followed by NIS (11.5 per cent), Malta (4.6 per cent), Singapore (4.3 per cent) and Hong Kong (3.3 per cent). [12] According to estimates made by some marine consultants, approximately 31 per cent of shipowners now operate their tonnage solely under open registries and over 60 per cent of shipowners enjoy open-registry benefits. [13]

21. An analysis made in respect of ship type composition (ships over 1,000 grt) of the five major open-registry countries, as shown in table 6, indicates that between mid-1990 and end-1991 this country grouping's fleets grew both in terms of number of ships (up 9.9 per cent) and their deadweight capacity (up 11.6 per cent).

22. The fleet registered in the most important open-registry country, Liberia, decreased by 1.5 per cent to 88 million dwt, thus the country accounted for 39 per cent of the deadweight of the grouping in question (44.2 per cent in 1990). During the same period, Panama increased its fleet by 25.4 per cent to 68.3 million dwt and its share in the total main open-registry countries' fleet reached nearly 30.3 per cent (27 per cent in 1990). The fleet of Cyprus expanded by 13.9 per cent and its share reached 14.9 per cent (14.6 per cent in 1990). The Bahamas demonstrated the most noticeable change of fleet from mid-1990, i.e. +45.4 per cent, thus its share reached 13.5 per cent, (10.4 per cent in 1990) while Bermuda's fleet decreased by 33.1 per cent and its share dropped to 2.3 per cent of the main open-registry countries' tonnage (3.8 per cent in 1990). The composition of the major open-registry countries' fleet remained practically unchanged in comparison to the previous year. In 1991 oil tankers represented the largest category (in terms of deadweight). Their share in the total fleet remained at the level of the previous year, namely 47 per cent. They were followed by dry bulk carriers (33.2 per cent versus 33.7 per cent in 1990) and general cargo ships (11.4 per cent versus 11.6 per cent in 1990). The share of container ships increased marginally to 2.9 per cent (2.6 per cent in 1990).

23. Table 7 indicates the role of tonnage owned by nationals in the total fleet registered in certain open and international registers, as at the end of 1991. It shows that the most important open-registry countries and territories either have no fleet owned by nationals at all (Liberia, Bermuda) or its share in the total fleet is very small (Panama, Bahamas). The countries having the largest portion of tonnage owned by nationals in the total fleet flying their flags are Singapore (36.8 per cent) and Cyprus (15.6 per cent). Norwegian and Danish international ship registers have been designed to maintain the national fleet in the respective second registers or re-attract the previously flagged-out vessels. Thus, 95.3 per cent of the tonnage registered in NIS is represented by ships owned by nationals, while all ships registered in DIS are owned by nationals.

24. The process of creating open, second and international registers actively continues. The possibility of creation in the near future of a second or international register is being considered in Finland and Sweden. [14] Turkish shipowners are urging their Government to establish an international register similar to NIS and DIS, so as, *inter alia*, to attract operators in the neighbouring States having strong commercial links with Turkey. The Faroe Islands are expected to have an international ship register in 1992. It is believed that the Norwegian and Danish ship register models will be closely followed. [15]

Table 6

Tonnage distribution of major open-registry fleets a/
(As at the end of 1991)

Country	Oil tankers		Dry bulk carriers		General cargo		Containerships		Others		Total		1990 Total b/	
	Ships	'000 dwt	Ships	'000 dwt	Ships	'000 dwt	Ships	'000 dwt	Ships	'000 dwt	Ships	'000 dwt	Ships	'000 dwt
Liberia	395	47 844	459	26 891	320	5 113	78	2 316	213	5 881	1 465	88 045	1 469	89 351
Panama	268	26 342	557	21 902	1 344	13 263	144	3 112	470	3 683	2 783	68 302	2 612	54 483
Cyprus	99	10 062	442	17 646	519	4 708	38	484	67	666	1 165	33 566	1 009	29 468
Bahamas	166	17 852	167	8 168	288	2 628	29	632	194	1 168	844	30 448	591	20 934
Bermuda	22	3 891	8	343	15	135	1	29	29	803	75	5 201	79	7 779
TOTAL	950	105 991	1 633	74 950	2 486	25 847	290	6 573	973	12 201	6 332	225 562	5 760	202 015

Source: Based on data supplied by Lloyd's Maritime Information Services Ltd., London.

a/ Ships of 1,000 grt and above; figures have been rounded to the nearest thousand. This table is not fully comparable with tables 4 and 11, which take ships of 100 grt and above as the base.

b/ As at 1 July 1990.

Table 7

Tonnage owned by the nationals of the country of registry in the total fleet of the most important open and international registers
(Thousand dwt as at the end of 1991) a/

Country of registry or register	Liberia	Panama	NIS	Cyprus	Bahamas	Singapore	Malta	DIS	Bermuda	Vanuatu
Total tonnage registered in the country or register	88 045	68 302	37 996	33 566	30 448	13 468	12 827	7 492 443	5 201	3 118
Tonnage owned by nationals of the country of registry	0	70	36 197	4 079	577	4 959	268	7 492 443	0	0
Share of tonnage owned by nationals in the total registered fleet (%)	0	0.1	95.3	12.1	0.2	36.8	2.1	100	0	0

Source: Compiled on the basis of data supplied by the Lloyd's Maritime Information Services Ltd. (London).

a/ Ships of 1,000 dwt and above.

25. Various countries which had previously opposed the open-registry system have recently reconsidered their attitude towards open and international registers. Guided by different economic or political reasons, their shipping or ship-managing companies have started and are intensifying employment of open-registry facilities. Thus, for instance, AKP Sovcomflot (former USSR) flagged out part of its fleet under pressure from foreign banks, who regarded this move as an added security for the finance being provided for the company's newbuilding programme. [16] Most of these flagged out vessels fly flags of Cyprus and Malta. It was also decided that a further ten 2,700 TEU containerships due for delivery up to mid-1993 would operate under the Liberian flag. These ships have already been taken on time charter by a German shipowner. [17] In view of the unstable situation in Yugoslavia, some national ship-owning companies have transferred a significant part of their tonnage to St. Vincent and the Grenadines and Malta. A number of ships were registered in Liberia and Panama. At the end of 1991, about 67.8 per cent of tonnage owned by Yugoslav citizens was registered abroad. [18]

26. Table 8 gives information on the true nationality of the five major open-registry fleets as at the end of 1991. As in previous years, the ownership of the five major open-registry fleets was concentrated in a relatively small number of countries with 10 countries or territories controlling 82.8 per cent of its deadweight and 76.2 per cent of the total number of ships. Greek shipowners continued to dominate in the combined open-registry fleet with more than 40 million dwt or 17.7 per cent of its total deadweight. They are closely followed by Japanese shipowners (38.3 million dwt or 17.0 per cent of the fleet in question) and shipping companies from the United States (36.3 million dwt or 16.1 per cent of the fleet).

E. Type of vessel

27. A presentation of the current world merchant fleet by principal type of vessel is provided in table 9 and graph 7. As in previous years, four types of vessel - i.e. oil tankers, ore and bulk carriers, bulk/oil carriers and general cargo ships - constituted the main part of the fleet in 1991. Their combined deadweight reached 620.4 million dwt or 89.6 per cent of the world fleet. However, the share of these four types of vessel in the world merchant fleet tonnage slightly decreased compared to 1990, when it stood at 90.2 per cent. Oil tankers showed a 4.5 per cent increase and the tonnage of ore and bulk carriers grew by 3.3 per cent, while general cargo tonnage (including passenger cargo ships) increased only by 0.6 per cent and bulk/oil tonnage slightly decreased (by 0.5 per cent as versus the 1990 figure). The most significant change was shown by containerships (+13.5 per cent increase of fleet from mid-1990 to end-1991) and by liquefied gas carriers (+11.3 per cent during the above period). The tonnage of chemical carriers and ferries (including passenger vessels) increased by 8.2 per cent and by 6.7 per cent, respectively.

SCOT

Shippers for Competitive Ocean Transportation

SCOT, 10615 Hunters Chase Lane, Damascus, MD 20875

July 19,1993

Ms. Janice Mays
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington D.C. 20515

Dear Ms Mays,

In the written statement submitted to you on June 29,1993 for Shippers for Competitive Ocean Transportation I referred to a study by the Maritime Administration (Page 1 paragraph 4 and ATTACHMENT I).

At the time the testimony was prepared not all data on specialized fleets was available from MARAD. The following is submitted to complete your file. It need not be added to our testimony unless you wish to do so.

The MARAD data was as follows:

Column A - Number of vessels in the world Fleet less U.S. owned- MARAD data.

Column B - Number of vessels MARAD assumes would be blacklisted under HR-1402 based on MARAD's 1988 report.

Column C - Column B divided by Column A. Percent of the world fleet less U.S. owned that would be blacklisted.

	A	B	C
LINER Fleet	1,302	649	49.8%
PETROLEUM TANKER Fleet	4,372	1,545	35.3%
CHEMICAL PARCEL TANKERS	648	331	51%
VEHICLE CARRIERS (Auto/ Truck)	478	78	16.3%
SPECIAL BULKERS (Forest & Paper)	544	78	14.3%

As noted in Attachment we believe the SCOT data is more accurate as it is current. Based on SCOT data we feel 45% to 75% of the above specialized fleets would be blacklisted.

yours truly,

H. George Miller

Chairman GIBBONS. Mr. Loree.

STATEMENT OF PHILIP J. LOREE, CHAIRMAN, FEDERATION OF AMERICAN CONTROLLED SHIPPING

Mr. LOREE. Thank you very much, Mr. Chairman. My name is Philip J. Loree. I am chairman of the Federation of American Controlled Shipping.

Mr. Chairman, I had the pleasure and honor 2 years ago this month to appear before your subcommittee on the predecessor legislation. In the intervening 2 years, much has happened. I thought in preparing my testimony today I would more or less reiterate what I had said 2 years ago, and I said to myself that is a waste of time.

I have in the second part of my written statement tried to lay out in the briefest terms possible the trouble we see with title I, how it would injure American ship operating companies, and the trouble we see with title II, how it would injure and harm American trade, American cargo owners and shippers.

I think the other witnesses who are with me today have already gone into those points. I will forego any comments other than to say that it is understandable why any organization representing ship operators and cargo owners would be opposed to H.R. 1402.

I thought, instead, I would try to look at this legislation in the context of where we are in the world today and where we are in shipbuilding in this country: I come at this from a particular vantage point. I have the pleasure of being the first American chairman of the Maritime Transport Committee of the Business and Industry Advisory Committee to the OECD, which is a lot of words, but it does give me some access to OECD, and I have had the opportunity to meet Ambassador Sohlman and have talked with others in Europe about this and in the Far East where I have visited.

I have the feeling that H.R. 1402 is somewhat untimely and unrealistic at this time, and I would like to very briefly try to describe my reasoning.

It seems to me, first, that subsidies in shipbuilding and ship repairing, which is very important here because we are talking about more than just plain shipbuilding, are a fact of life. To some degree they are a fact of life in this country.

You mentioned the Italians and wondering why Fincantieri would be receiving subsidy or why Rostock in East Germany would be receiving subsidy. I think the reasons are pretty obvious. They may be the same reasons that we spend billions of dollars a year at our U.S. shipyards for military construction and military related construction. It is a very, very important industry. It is very high employment, and has considerable political clout.

I think East Germany, is an example. The former East German yards are totally noncompetitive in the world of commercial context. Terribly overmanned, plants terribly out of date, management systems in woeful shape. As you know, in East Germany, after the reunification, there was rioting of sorts. I understand that in Rostock, I believe it is, that over 60 percent of the employment in that area is keyed to shipbuilding, and it seems inconceivable that the German Government could all of a sudden let those yards in East Germany, former East Germany, go to seed, so to speak.

And they didn't. They came up with a program, as I understand it, which is intended to pour some $4 billion into the former East German yards over a period of 5 years. I think if you decided to close down the Italian yards, you would have some noisy people in the streets, and that rule pretty much pertains throughout the world.

Here we are, not in the streets, we are in the U.S. Congress, but our own yards have serious problems. And I want to say right here that we share a genuine concern for our American countrymen who are in shipbuilding. In fact, we have talked about this at great length. There is a feeling among our people, many of whom are very familiar with shipbuilding practices, not only in this country but around the world, that there are opportunities here.

No one that I know of in our organization believes the answer is to eliminate foreign subsidies and certainly no one believes that the answer is to penalize American ship operators and cargo owners to achieve that end.

Now, I would like to make the point that the U.S. shipyards today, in terms of international commercial competition, are in almost the same position that the East German yards were just before reunification. I think very candidly, we have to face up to the hard reality that if we eliminated all the subsidies in the world, and let the American yards go out on their own without some substantial Federal assistance, they would die on the vine.

I was interested yesterday that the House Merchant Marine and Fisheries Committee marked up H.R. 2547, which is designed to get into this assistance end. And in their summary of proposal, the committee has this passage, which I think is telling. It says, "While passage of legislation to eliminate foreign government subsidies is an important element in achieving world market pricing, its passage alone, without transition programs, will still leave our shipyards at a pricing disadvantage."

Now, if they are correct, and we succeed in eliminating subsidies over a relatively short period of time, I don't know what we have accomplished other than to harm some American ship operating companies and some American cargo owning companies.

So I think we have to come to the point and accept the realities that our U.S. yards need substantial Federal assistance if we are going to get them off the ground, if we are going to make them able to become players in the international arena.

Our people tell me, those familiar with U.S. yards, that there is an enormous amount of restructuring that would have to occur and an enormous change in the ways of doing business. Mr. Finnerty alluded to productivity. Studies I have seen, one by Professor Frankel of MIT, had the Japanese at about 2 years ago, I believe it was, at 2.71 times the American productivity rate. That is an astounding figure when you think of it.

And it is not necessarily American employment. Certainly management has to come up to speed. Certainly the yards, the physical layout, the equipping of the yards, the restructuring of the systems, everything needs to be changed if they are going to go into the major leagues and compete head to head against foreign competition.

I don't know of any way, given the present state of American shipbuilding, that we could attract private investment into the industry without some hard substantial Federal assistance in the form of grants and guaranties. I know of no other way. And I think we are fooling ourselves if we think we can, like King Canute, demand subsidies around the world stop and not take up the other side of the equation, which is to help the U.S. yards.

And finally, I refer to the National Shipbuilding and Conversion Act which was reported out by the, or at least marked up by the Merchant Marine and Fisheries full committee yesterday. I also note that Ambassador Yerxa pointed out that the administration is working on this. I think people who are seriously looking at our shipbuilding industry are reaching a consensus that we have to do something about it.

I think it makes a lot more sense, and I am speaking personally, to pour millions of dollars into a high employment, very key industry rather than perhaps spending money on 21 billets on a ship that may cost us $2.5 to $3 million per ship per year. I think we would get more bang for the buck certainly in terms of employment by focusing on the yards.

Now, it seems to me if these are realities I am referring to, that it seems rather fanciful to believe that we could phase out shipbuilding subsidies around the world over the near term. I think they should be phased out. I accept your view, Mr. Chairman, that we should get rid of them, but I think the reality is that we are going to need a substantial transition period. And one of the problems that I sense, having been over at OECD and talked to Ambassador Sohlman and others, there are countries with very serious problems, and I think we are one of those countries.

We have to decide whether we are going to condemn subsidies or condone them, and not only for our friends abroad, but for ourselves. Maybe we can condemn them in a politically acceptable fashion, but realize that we are going to have to take a period of time, I said at least 5 years, possibly more, could be 10 years for that matter, in which we are going to bring our own yards up to speed. If we care about them, we must, and at the same time give every yard in every country, building and repair, the chance to adjust to a new world.

Now, whether that is dreaming, I don't know. But I think if we are to get a political agreement, that is the only way we will ever get one and it is really the only way we will ever help our own yards, in my opinion.

I thank you very much for your time, Mr. Chairman.

Chairman GIBBONS. Thank you.

[The prepared statement follows:]

STATEMENT OF PHILIP J. LOREE, CHAIRMAN
FEDERATION OF AMERICAN CONTROLLED SHIPPING (FACS)
BEFORE THE SUBCOMMITTEE ON TRADE
OF THE
HOUSE COMMITTEE ON WAYS AND MEANS
ON
H.R. 1402
JULY 1, 1993

Thank you very much for the opportunity to appear once again before your Subcommittee and to offer some views on H.R. 1402, the most recent version of the proposal aimed at eliminating subsidization of shipyards by foreign governments. Because our membership comprises American companies which own, operate, manage, charter, finance or otherwise utilize open registry vessels competing in the international trades, we are understandably opposed to proposals such as H.R. 1402 which would be harmful to ship operating and cargo owning interests in the United States.

On the other hand, we also have empathy and concern for our fellow Americans engaged in shipbuilding and ship repair, and genuinely would like to see them become competitors in the global arena. In fact, some very knowledgeable operators in our sector of the business believe that U.S. yards can make such a quantum leap, but none, to my knowledge, believes that the answer lies in penalizing vessel operators and cargo owners or, for that matter, in seeking to eradicate shipyard subsidies throughout the world.

In one sense H.R. 1402 and its predecessor proposal in the last Congress have served a commendable purpose. They have focused attention on the economic plight of U.S. shipyards and on their uncertain future as military work has ebbed and as directly and indirectly subsidized commercial work has all but disappeared. On the other hand, these legislative proposals have directed attention to foreign subsidies which, we believe, are not the real problem and which, even if they were eliminated, would not *ipso facto* render U.S. yards internationally competitive.

This statement first outlines the reasons why H.R. 1402 appears to be out-of-step with current developments, and then explains why H.R. 1402 would negatively impact on American ship operating and cargo owning interests.

H.R. 1402 and Current Developments

Two years ago this month I appeared before your Subcommittee at its hearing on the original proposal to compel foreign countries to forego offering assistance to their shipyards. The concept of penalizing certain vessels operating in U.S. trades with other nations was obviously unsettling to everyone who would have been affected, including our membership. Consequently, we directed most of our attention to the negative aspects of the proposed legislation. In the intervening two years there has been ample time to give some serious and more constructive consideration to the problems confronting U.S. shipyards and their relationships to developments in the maritime sector generally. I would like to offer some thoughts in this regard.

We believe that continuing on the course of seeking to pressure foreign government to conclude a multilateral agreement which would eliminate subsidies across-the-board over the next few years is not realistic under the present circumstances for a number of reasons.

First, the reality in many countries is that there are strong

political, economic and social reasons for offering governmental assistance to enable their yards to continue to operate. The former East German yards are a compelling example of this reality. If the German government had not undertaken to commit some $4 billion over a five year period to revitalize the former East German yards, the fallout in terms of unemployment, political unrest and human suffering could, and probably would, have been enormous. Similar but less dramatic pressures exist in various other countries around the globe. Consequently, it is difficult to believe that subsidies for shipyards could ever be ended within a matter of a few years by multilateral agreement.

Second, the U.S. yards presently are in much the same non-competitive position as the former East German yards were prior to the decision made last year by the German government. Candidly, there is no reason to believe that American shipyards could survive without government assistance in an unsubsidized world marketplace any more than the former East German yards could have survived.

Third, to become internationally competitive the U.S. shipyards need to undergo extensive restructuring of their facilities and their ways of doing business. This could only be achieved by substantial new capital investments and by undertaking research and development leading to the adoption of new technology, creative vessel designs, modern management systems and programs to increase productivity and to promote commercial sales through sophisticated vessel finance and export promotion. It seems improbable that such investments and programs could be initiated without federal assistance offering grants and guarantees which in turn would facilitate private investment.

Fourth, the Administration and at least one congressional committee are presently considering what could be done to provide new federal assistance to U.S. shipyards. It is very possible that new policies offering government assistance to domestic yards may result from these deliberations.

Viewed in the context of these various economic and political realities, the basic premise of H.R. 1402 -- that shipyard subsidies must be eliminated over the near term -- is subject to serious question. It would seem that the United States is now at a policy crossroads, at which it must be decided whether to condemn or condone government assistance to shipyards, be they foreign or domestic. We surely cannot have it both ways, demanding in H.R. 1402 that foreign governments cease assisting their yards while we plan to provide new forms of government assistance for our domestic shipyards.

The politically acceptable solution may be to recognize that at the present time subsidies for shipyards are a fact of life, and that such subsidies could only be phased out gradually over a period of five or more years, thereby providing ample time for adjustment by both domestic and foreign shipyards to a subsidy-free world. Such a political compromise could best be achieved multilaterally without concurrently moving ahead with the threat of enacting a harsh unilateral measure such as H.R. 1402. It may well be that continuing to trumpet a unilateral approach would "poison the water" in the multilateral negotiations, particularly if the United States, at the same time, adopts a policy favoring new forms of assistance for domestic shipyards. There is also the consideration that continuing to demand that other countries halt their assistance programs for their shipyards conceivably could undermine efforts at home to obtain needed assistance for U.S. yards.

In summary, we urge your Subcommittee to reconsider the advisability and timeliness of moving ahead with H.R. 1402 in view of the developments that have taken place since your Subcommittee's July 1991 hearing.

Potential Impact of H.R. 1402

Title I

Title I would apply antidumping and countervailing duty restrictions to vessels purchased by American companies which are seeking to compete in the international marketplace.

Two points deserve mention with respect to Title I. First, the existing U.S. cabotage law effectively prohibits the importation of foreign built vessels for use in U.S. domestic waterborne commerce. Clearly the Jones Act prohibition against importation of foreign built vessels is by its terms much more restrictive and exclusionary than any antidumping and countervailing duty limitation could ever be.

On the other hand, vessels that trade internationally, much like aircraft operating on international routes, are not imported for domestic use simply because U.S. companies happen to operate them in transporting cargoes to and from U.S. and foreign ports. It is much more than mere semantics to point out that vessels are instruments or servants of trade, not items of trade, as they ply the sealanes of the world. They cannot rationally be deemed to be U.S. domestic imports.

Second, it bears emphasis that Title I would penalize only American ship operating companies, which desperately need to be helped, not hindered, by government policies if they are to be competitive in the international marketplace. The American controlled open registry fleet under Effective U.S. Control (EUSC) is ebbing, having lost some 12,000,000 tons of carrying capacity since the 1986 Tax Act placed the EUSC fleet at a serious competitive disadvantage with respect to foreign controlled shipping. The EUSC tonnage lost since 1986 is equal to almost three quarters of the present carrying capacity of the entire privately owned and active U.S. flag fleet. At the same time, U.S. flag ships in the international commercial trades are under intense competitive cost pressures and some companies have threatened to leave the registry in the absence of new government funding needed to maintain their competitive status.

Under these circumstances it would seem that any legislative proposal, such as Title I, which would penalize and disadvantage American ship operating companies in the international arena should be summarily rejected.

Title II

It is likely that Title II would not directly impact on American companies operating either EUSC vessels or U.S. flag vessels. The EUSC vessels are registered in four countries -- Liberia, Panama, Bahamas and The Marshall Islands -- in which, to my knowledge, government subsidized shipyards do not exist. And, of course, U.S. registered vessels presumably would not fall within the scope of Title II.

The problem with Title II is that while it would not directly harm American ship operating companies, it would create serious problems for other American enterprises which are dependent on the unrestricted, efficient and low cost oceanborne movement of goods and commodities in U.S. foreign commerce. In addition, American ship operating companies could be indirectly impaired if foreign governments were aggrieved by the imposition of seemingly unfair penalties under Title II and responded by taking retaliatory action against American controlled and/or registered vessels.

The potential breadth and scope of the intended application of Title II, as well as its harsh and automatic penalty provisions, are quite extraordinary compared to current practices and controlling principles of comity which prevail today in

international shipping. Indeed, Title II is so draconian that some in the maritime sector refuse to believe it could ever be enacted into law.

To appreciate how far-reaching Title II appears to be, it must be kept in mind, first of all, that it would impact on countries with shipbuilding or ship repair facilities. The addition of repair yards greatly broadens the reach of Title II, because there are repair facilities in many countries which do not have shipbuilding facilities.

Moreover, under the virtually all-inclusive definition of proscribed "subsidy" in H.R. 1402, it is probably fair to conclude that almost every country with a shipbuilding or ship repair facility would run afoul of Title II -- just as the United Stated surely would if H.R. 1402 applied to this country as well.

Furthermore, Title II would apply not only to vessels flying the flags of the many shipbuilding and ship repair nations, but also to vessels registered under the laws of countries without shipyards as such where the beneficial ownership of the vessels was held by citizens or nationals of the offending countries. For example, if Denmark were listed as an offending country (which would seem to be likely given the current government support to Danish yards) then not only would Danish flag vessels be subject to penalties under Title II, but also Danish controlled vessels flying the flags of Great Britain, Norway, Singapore, Liberia, Panama, Bahamas, etc. would also be penalized if they traded to U.S. ports.

The scope of Title II must be read in the light of the fact that almost half of the tonnage in the world's fleet is beneficially owned by non-nationals of the flag states. The following is a sampling (percentages are rounded off) of the OECD statistics showing the widespread absence of the beneficial ownership/flag linkage:

Nationality of Owner	Percentage of Tonnage Under Non-National Flags	Nationality of Owner	Percentage of Tonnage Under Non-National Flags
Greek	56%	German	58%
Japanese	60%	Danish	39%
American	70%	Taiwanese	14%
Norwegian	33%	Swedish	63%
Hong Kong Chinese	88%	French	52%
Chinese	23%	Belgian	97%
British	75%	Dutch	33%
Korean	36%	Swiss	86%

To appreciate further the broad sweep of Title II, it must also be kept in mind that the provision would for all intents and purposes apply to both new and existing vessels (regardless of where they were built or repaired). Taking the hypothetical example cited earlier, this means that a Danish controlled vessel flying, say, the British flag which was built 15 years earlier in a third country would be subject to penalties even if the vessel has been built or repaired without benefit of any shipyard subsidy and even if the present owner had nothing to do with ordering the vessel or arranging for its repairs.

If the wide scope of application of Title II is considered along with the severe and virtually automatic application of such penalties, the conclusion must be that Title II could seriously impair the nation's export and import trades, to the immediate detriment of American shippers, cargo owners and ports, and ultimately impacting on consumers and the national economy.

To appreciate the complexity of the problems that would be created to impede normal maritime operations and thus U.S. trade,

consider the example of an American steel company which arranges for the transportation of its iron ore imports under term charters. It could suddenly find that vessels it had chartered some years or months earlier were subject to penalties under Title II if the ships were directed to proceed to U.S. terminals. The American company would then be faced with demands for indemnification if it directed the vessels to continue serving its import needs.

Another example would be the American grain company seeking to arrange spot charters to transport American exports of wheat, corn or other agricultural products. The available bulk carriers would fall into essentially two categories -- some "safe" vessels and probably a larger number of "targeted" vessels subject to Title II penalties. Under these artificial market conditions the freight rates would presumably be driven upwards as a kind of two-tiered market structure came into being. The "targeted" vessels would demand higher than normal rates to cover the cost of Title II penalties, and the "safe" vessels would seek charter rates that were below the "targeted" vessels' rate levels but above the levels that would otherwise have prevailed under normal conditions.

Presumably this situation would create an upward creep in charter rates as the two tiers in the market continually adjusted to the shifting levels. The clear losers in the above example would be the American agricultural exporter and American farmers because the landed costs of the U.S. exports in foreign markets would rise disproportionately above the landed costs of foreign exports.

The ripple effect of the uncertainties created by application of Title II could dampen and impair future orders and financing of vessels for the U.S./foreign trades, which in turn would also distort the supply/demand equation and thereby create an upward pressure on rate levels. At the same time, the replacement of older and less environmentally desirable vessels could be impeded.

One of our organization's primary objects and purposes is

> "To encourage free and open maritime trade throughout the world, to oppose artificial and unreasonable restraints on such trade and to facilitate international maritime trade by stressing that flexible, efficient and dependable shipping arrangements are essential to shippers, cargo owners and receivers."

Clearly Title II would conflict with free and open maritime trade by imposing artificial restraints on such trade, and for that reason we believe it would be very harmful to American interests generally.

CONCLUSION

We respectfully urge that your Subcommittee decline to support H.R. 1402.

Chairman GIBBONS. Ms. Godwin.

STATEMENT OF JEAN C. GODWIN, VICE PRESIDENT, GOVERNMENT RELATIONS, AMERICAN ASSOCIATION OF PORT AUTHORITIES

Ms. GODWIN. Thank you, Mr. Chairman. It is difficult going last because so much of what I wanted to say has already been covered, but let me start out by explaining why the interest of the public port industry in the United States is a little unique and somewhat different from some of the other folks up here.

My association, AAPA, represents the public port agencies throughout the Western Hemisphere and I am here speaking on behalf of the U.S. members of our organization. We are public agencies at the State and local level. We have invested significant amounts of public dollars, more than $12 billion in the last 40 years, in facilities at the ports. According to MARAD, we are planning on spending $5.5 billion more by the year 2000. Again, all public dollars. This does not even include the amount of money that ports and the Federal Government, in concert, have spent on dredging our Nation's harbors. Just on the land side it is $12 billion. So we have a significant investment to protect on behalf of the public.

We are responsible for 1.5 million jobs in the United States and contribute $70 billion to the gross domestic product. I think perhaps more than anyone at this table, my industry and my association has a strong interest in a very strong and viable U.S. shipbuilding and repair industry. These are our tenants, they lease facilities at the port. These are services offered at the port that make the ports attractive, and it is very important to us to see this problem resolved.

I agree there is a serious problem and it is something that needs to be addressed. The question is how to go about that and how specifically the approach taken in H.R. 1402, balancing the difficulties and the costs involved, and some of the perhaps unintended negative impacts of it, may be weighed against the benefits to the U.S. shipbuilding industry.

Obviously, we are most concerned with the possibility, and I admit it is a worst-case scenario, but the possibility that the vast majority—whether you take a two-thirds or a three-quarters number, everyone agrees it is a very high percentage—of the world fleet is going to be subject to sanctions under this bill, under title II specifically.

You are aware that we had some concerns last year about H.R. 2056. I think in terms of the starting point, this bill is an improvement because I think there are some changes that can be made to this bill that will make it much improved and make it a very effective remedy for the shipbuilding and repair industry.

Targeting sanctions against vessels flagged or owned by citizens of the countries that subsidize their shipyards is certainly preferable to having every ship coming into the United States certifying it is not subsidized. And, again, having a 180-day grace period in order to facilitate negotiations and get countries to come in and sign trade agreements, I think, is a very good improvement.

Several people have mentioned the Foreign Shipping Practices Act that the Federal Maritime Commission administers. That has been a very successful program, but, unfortunately, although the bill is patterned on that law, it takes some of the best parts of that law out. The flexibility that is provided under the FSPA, which the FMC has used very effectively, is no longer there. And, in fact, the FMC has never had to go to the last step and impose sanctions on any of the countries they have been dealing with.

FSPA is targeted, for the most part, on one country at a time. It is complaint driven. There is great flexibility in the kind of penalties you can impose and the time periods are more flexible. So that if you see a good faith effort to negotiate, you can again give people a little more time to come to the table.

The difference here with H.R. 1402 is the minimum sanction of $500,000 per voyage penalty. If you start up counting how many voyages a year, that is obviously a significant amount of money. As George mentioned, it certainly would increase transportation costs for bulk commodities like grain or coal. It could be enough to price them out of the international market so we won't see the export sale.

Obviously, from my perspective, we are concerned about diversion, and the thought that carriers will try to take the cargo to a neighboring port in a neighboring country in order to avoid the sanction. That is a possibility. And although I appreciate the effort of the diversion section to try to remedy that, it is not a complete remedy and it probably is not a workable remedy.

It is not complete because it does not get to the diversion of cruise operations at all, which is a significant threat. It does not get to the diversion of export shipments. You could send your exports out through Canada and not have any effect. The diversion provision would not stop you from doing that. It does focus on imports only.

To the extent it does focus on imports, it is not very easy to administer. This is not information that a Customs Inspector at the border now has. They do not have paperwork showing what vessel that cargo came in on when it came into a Canadian port 1,000 miles away. It would be difficult to start collecting that information. There are ways people could try to fix up their paperwork to get around sharing that information.

Again, I don't think it is very workable, but we appreciate the efforts and your trying to deal with the diversion problem, which is something that we have raised.

Compared to H.R. 2056, this bill, as drafted right now, if it were enacted today, would probably have a worse negative effect on U.S. exports and imports because of the inflexibility. Under 2056, new vessels would have been sanctioned immediately but existing vessels would not have been sanctioned until after they had their first repair done in a foreign subsidized shipyard. At that point, if they tried to come into the United States, they would be stopped and have to repay the penalty. It would not affect most of the world fleet all at the same time. The effect would have trickled in.

By contrast, under H.R. 1402, after that 180-day period, everyone on the list, every vessel flagged, every vessel owned by citizens of those countries would all be subject to the sanctions. They would

all be subject to the sanctions at the same time, and the ship owners would have no control. They cannot repay a subsidy anymore to get out from under. They have to go back to their government and get their government to agree to make their subsidies.

I understand that that is the purpose of the bill to try to encourage the folks in these other countries to come to the table, but in terms of immediate impact on trade and on cargo coming into U.S. ports, it would actually be more serious and more immediate under this particular bill.

We have made some suggestions on how we think some of our problems with the bill could be alleviated. I could not agree more with the concerns about title I. We should not be imposing sanctions on U.S. companies. I agree with the the legal analysis showing that international vessels, these are vessels dealing in international trade. They are not being imported; they are bringing cargo here. They are instruments of commerce.

And, in fact, aircraft coming here in international trade are not subject to antidumping or countervailing duties, as Peter pointed out, only if they are brought in for use in the domestic market. So we would agree with the suggestion to eliminate title I.

We would also suggest making the rest of the bill more flexible, not imposing minimum sanctions, but allowing some administrative leeway to target more severe sanctions against the worst offenders. We agree with the USTR suggestion that this be a complaint driven process so that you can target the worst offenders and not try to hit 20 countries at the same time and hit all the world fleet all at the same time.

We also agree with their suggestion there be some kind of injury or adverse impact test, because under the bill now, there is not necessarily any relationship between the subsidy or the amount of the subsidy and how it affects U.S. shipyards. The mere existence of any subsidy of any size would result in these minimum, very severe sanctions.

I have to agree with some of the other witnesses that subsidies are a very small piece of a much bigger problem. That does not mean it is not a piece that needs to be dealt with, and as we see Congress looking at the possibility of increasing our own subsidies, U.S. subsidies to U.S. shipyards, I don't see how we can go in both directions at the same time, other than perhaps to increase our subsidies in the short run with the idea down the road all the countries, including the United States, will eliminate their subsidies. It is very difficult to do both at the same time.

I would be happy to answer any questions about our testimony or about our concerns.

[The prepared statement follows:]

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TESTIMONY OF

JEAN C. GODWIN

VICE PRESIDENT, GOVERNMENT RELATIONS

AMERICAN ASSOCIATION OF PORT AUTHORITIES

BEFORE THE HOUSE WAYS AND MEANS TRADE SUBCOMMITTEE

JULY 1, 1993

ON H.R. 1402

"SHIPBUILDING TRADE REFORM ACT OF 1993"

Mr. Chairman and members of the Subcommittee, my name is Jean Godwin. I am the Vice President of Government Relations for the American Association of Port Authorities (AAPA). Founded in 1912, AAPA represents virtually every U.S. public port agency, as well as the major port agencies in Canada, Central and South America and the Caribbean. My testimony today reflects only the views of the United States delegation of AAPA.

AAPA members are public entities mandated by law to serve public purposes--primarily the facilitation of waterborne commerce and the consequent generation of local and regional economic growth. As public agencies, AAPA members share the public's interest in serving our country's economic, international trade, and national security objectives. Public ports serve as a vital conduit linking the United States to the world marketplace, a critical intersection in the intermodal chain. Ports serve broad hinterlands, connecting farmers, manufacturers and suppliers often thousands of miles inland to international markets thousands of miles from our shores.

International and domestic waterborne trade creates tremendous positive economic impacts at the local, regional and national levels. From the perspective of the port industry, in 1991, the most recent year for which data is available, the U.S. DOT estimates that commercial port activities generated 1.5 million jobs, contributed $70 billion to the gross domestic product, provided personal income of $52 billion, generated federal taxes of $14 billion, state and local taxes of $5.3 billion, and $11 billion in Customs receipts. The importance of ports to local, state and regional economies cannot be overstated. Exports today are increasingly necessary to the health of America's economy, representing one out of six U.S. manufacturing jobs. Additionally, we recognize the significant economic impact created by the shipbuilding and repair industry at ports throughout the United States.

Public ports are keenly interested in the issue of foreign shipbuilding subsidies. In fact, many AAPA members own shipyard facilities which are leased to ship building and repair companies. We support efforts to create a level playing field in international commerce, but also strongly encourage shipyards to enhance their competitiveness through greater efficiencies. However, H.R. 1402 (Gibbons, D-FL), the Shipbuilding Trade Reform Act of 1993, if enacted as currently drafted, would have a devastating impact on U.S. trade and commerce at our nation's ports. The legislation would not only extend U.S.

antidumping and countervailing duty laws to ocean vessels, which are not "imported" into the U.S., but could also result in the imposition of severe, trade-stopping sanctions against up to two-thirds of the world fleet at the same time.

Revitalization of the Organization for Economic Cooperation and Development (OECD) multilateral negotiations to eliminate shipbuilding subsidies is the best means of dealing with the problem of foreign shipbuilding subsidies. A legislative "fix" would attempt to benefit a single U.S. industry to the certain detriment of other U.S. industries. It would compound our efforts to open markets by creating a unilateral, sector-specific trade remedy that would increase the cost of using U.S. ports and disrupt international trade.

Specifically, Title II of H.R. 1402 would require the Secretary of Commerce to list all countries that subsidize their shipyards and, 180 days later, impose severe sanctions against vessels flagged or the controlling interest in which is held by citizens of those countries. The penalties can include limiting 50 percent or more of the vessel's sailing and/or a minimum $500,000 per voyage fee.

There are improvements over last year's H.R. 2056. The bill appropriately focuses sanctions against vessels flagged or owned by citizens of countries that subsidize their shipyards, rather than creating a new administrative burden on all vessels entering U.S. ports, as the certification process under H.R. 2056 would have done. It also, appropriately, delays the imposition of sanctions for 180 days in order to allow time for countries to enter into trade agreements with the U.S. to eliminate shipbuilding subsidies.

Unfortunately, however, the 180 day deadline is not flexible, minimum penalties are required and not flexible, a country cannot avoid the sanctions except by signing an agreement to immediately eliminate its subsidies, and there is no injury test -- a U.S. shipyard does not have to prove that it could compete in the commercial market but for the foreign subsidy. The bill ties the hands of U.S. negotiators and would not make many U.S. shipyards competitive because their problems extend well beyond the existence of foreign subsidies.

The U.S. public port industry is gravely concerned that this legislation would result in diversion of U.S. origin or destination cargoes, as well as cruise operations, through non-U.S. ports. All U.S. coastal ranges have been adversely affected by additional taxes on trade, however, they are a particular concern for U.S. seaports bordering Canada. U.S. ports in the North Atlantic, Pacific Northwest, and on the Great Lakes face stiff competition from Canadian ports. Any further increase in the cost of using U.S. ports will result in diversion of cargo through Canadian ports. Cargo originating or destined for points in the U.S. can just as easily move through Canadian ports and over land into or out of this country. The countries that could be listed control nearly 68 percent of the tonnage in the world fleet and nearly 69 percent of the container capacity.

Although we appreciate the effort to address our concerns about cargo diversion to non-U.S. ports, unfortunately we do not believe the provision is enforceable. The bill would require Customs to stop cargo at the border if it came into a Canadian or Mexican port on a vessel that would be subject to sanctions if it came into a U.S. port. According to Customs, the documentation accompanying cargo at the border would not include such information. An attempt to include it would create a serious administrative burden.

Another concern for our member ports with cruise ship operations is the effect the bill will have on the cruise passenger industry. Many cruise ports are situated close to foreign ports which also offer cruise passenger services. If the cruise vessel would be affected by sanctions, the vessel owner could drop the U.S. port of call and embark passengers at the nearby foreign port. For example, cruise passengers that might otherwise use a Florida or Washington State port would have to fly to a Caribbean or Canadian port for embarkation. Cruise ports have made significant investments in the physical landside facilities which support cruise calls. As well, passenger cruise business provides significant

economic impacts to the local and regional economies, including 450,166 direct and indirect jobs, $6.3 billion in federal, state, and local taxes, and $14.5 billion in wages to U.S. employees according to a recent Price Waterhouse study.

Title I of H.R. 1402 would also hurt our U.S. flag fleet by applying U.S. antidumping and countervailing duty laws to ocean vessels, even though those vessels are not being imported into the United States. H.R. 1402 also opens up the distinct possibility that our trading partners would, in turn, demand repayment of so-called U.S. subsidies, such as the 50 percent ad valorem duty imposed on the cost of equipment and repairs on U.S. vessels in foreign shipyards, that are not eliminated under the bill. Undoubtedly, some sort of retaliation by our trading partners should be expected as an end result of enactment of this bill.

Unlike H.R. 2056, there are changes that could be made to H.R. 1402 that would resolve many of our concerns about the bill. H.R. 1402 could be vastly improved, and the negative impacts on U.S. trade and ports minimized, by amendments to (1) eliminate Title I, (2) make the sanctions under Title II more flexible (for example, limit sailings and a assess a per voyage fee of up to one million dollars), (3) allow more flexibility in the time frame (an extension of the 180-day period for countries negotiating in good faith for example), (4) allow a country to avoid sanctions by signing a trade agreement with the U.S. to phase out its subsidies (as opposed to immediate elimination) and (5) include a true injury test (i.e. a U.S. shipyard should have to prove that it could compete but for the existence of the foreign subsidy) before existing vessels would be subject to sanctions (newly constructed vessels could still be sanctioned without such a finding). In addition, sanctions should be imposed on one or only a few countries at a time rather than severely affect more than two-thirds of the world fleet -- the worst offenders should be targeted first.

The United States is asking other governments to stop subsidizing an industry which our own country has traditionally (and still does) subsidize, without any agreement to eliminate our own subsidies and at a time when the Congress is considering increasing our government subsidies to U.S. shipyards.

Although the construction differential subsidy (which provides payments to carriers to offset the higher cost of using U.S. shipyards) has not been funded since 1981, other subsidies assisting U.S. shipyards still exist. Under Title XI of the Merchant Marine Act of 1936, the U.S. government can guarantee the principal and interest on commercial financing for construction of vessels in U.S. shipyards. Under the Capital Construction Fund Program, U.S. flag carriers can defer taxes on earning deposited into fund accounts for future use in constructing U.S. flag vessels. In addition, U.S. flag operators must pay a 50 percent ad valorem penalty for vessel repair and maintenance work done in foreign shipyards.

In addition to these subsidy programs (which would result in the imposition of penalties under the Gibbons bill if they existed in another country), U.S. shipyards benefit from a number of other U.S. programs and policies. U.S. cabotage laws (the "Jones Act") and cargo preference laws restrict the U.S. coastwise trade and certain percentages of Government impelled cargo to U.S. flag carriers. U.S. fast sealift vessels are constructed exclusively in U.S. shipyards, resulting in billions of dollars of business for U.S. shipyards.

The public port industry has spent nearly $12 billion dollars in the last 40 years to develop transportation facilities. The U.S. Department of Transportation estimates that they will spend an additional $5.5 billion before the year 2000. In 1991, 1.4 billion tons of foreign and domestic waterborne cargo moved through our nation's ports in 1991, including 938 million short tons of import/export cargo worth $461.8 billion. This represents a 25 percent increase compared to 1985 and almost double the volume of 25 years ago.

U.S. ports have made the necessary investment to handle the projected increases in trade in the coming years. It is our hope that the issue of shipbuilding subsidies can be addressed without crippling the competitiveness of U.S. ports, shutting down U.S. vessel owners or increasing the cost of goods to the American consumer.

It remains to be seen how H.R. 1402 would help U.S. shipyards. In an effort not to jeopardize U.S. trade position, the shipyards, maritime industrial sector, and indeed our country needs long-term solutions not short term reactions or signals of dubious efficacy. To that end we encourage the Administration to double its efforts to restart the multilateral negotiations, and ports pledge to cooperate to develop a meaningful and internationally acceptable multilateral compromise. Meanwhile, there needs to be greater communication between ports and shipyards at local and national levels as we strive together to promote our common goal of creating economic activity at U.S. ports.

In summary, the U.S. public port industry opposes H.R. 1402, as drafted, and continues to hope that the problem of foreign shipbuilding subsidies will be resolved in the context of multilateral trade negotiations.

Chairman GIBBONS. Well, thank you.

I have listened very closely to all of you and, of course, I have wanted to work with you for a number of years, or tried to work with you for a number of years, but let me give you some views of my own.

First of all, any of you who are expecting the Congress or the Government to increase or continue any subsidies in your industry are living with an illusion. Even you, Ms. Godwin, know it is becoming very difficult to get money to improve harbors and things of that sort. We are offsetting those with user fees and anything else to collect that money back. So I think you are seeing the United States move toward a nonsubsidy type of environment on business.

I think you have to live with that. You are going to have to live with it, whether it is a true subsidy, vessel subsidy or anything else. There are not even any tax subsidies anymore in the construction of vessels, and I don't know how much longer the Jones Act will last. And anybody that takes great refuge in it lasting forever, I think, is living with an illusion.

As I listened to each of you, I got the impression, definitely, that you think we ought to get rid of shipbuilding subsidies; am I correct? Is that the general consensus of all of you at the table?

Mr. LOREE. Mr. Chairman, I think I would say, yes, but slowly and reasonably so people can adjust to it.

Chairman GIBBONS. I agree with you slowly and reasonably, but I can't think of anything that is as slow as the progress we have made so far unless it is going backward. So you will find that I am a very temperate man in most things.

I would like for each of the panelists starting with Mr. Miller and go right across the panel, each of you tell me specifically how you think we should get rid of shipbuilding subsidies on a worldwide basis.

Mr. MILLER. As I said in the testimony, on several occasions you have asked that question of us and we have given it a great deal of thought, and we don't have any good magic solution, unfortunately. What we do feel very strongly is that the solution in H.R. 1402, where the United States is dependent on the world fleet for 96 percent of our movement, is simply economic hara-kiri for the U.S. economy, and that is not a solution that we, and the economy, can or should tolerate.

I think the pressure on the international multilateral solution is the only type of solution that leaves all shippers in the competitive world market on a relatively even plane.

Now, there is no question if subsidies are decreased, ship rates over time will have to increase, but I think the overwhelming majority of U.S. shippers accept that sort of an increase, if its applies to all of the competitors. It is something that is essential for a healthy world economy and a healthy shipbuilding industry, and we do strictly believe that all industries should be free to compete and if they are efficient, to participate in all markets.

One of the things in working on this I have found with our members is a tremendous respect for the stand you have taken on free trade in Congress over many years. This has been terribly important to our industries and is very, very much appreciated. We

would very much like to find a way to help in this area on shipbuilding, but our only conclusion is that you cannot place U.S. commerce at a severe disadvantage, which this will.

Many of the changes that have been suggested would help ease this, but it still gets back that if we have retaliation and if there is a major increase in our freight rates, not reflected in the rest of the world's freight rates, we will lose billions of dollars of export sales. That will hurt immediately jobs in our industries and that will hurt the U.S. balance of payments, which I think is a terribly serious problem for the United States as well as the national deficit, which Congress is now attempting to deal with and which we feel is most important to us.

Thank you.

Chairman GIBBONS. All right, Ms. Godwin, how, if you were sitting in my position here, how would you solve the shipbuilding problem?

Ms. GODWIN. I wish it were an easy question to answer. I am encouraged at the fact that the new administration seems to be giving more attention to this issue than I think it had in the last couple of years. I would like to see the negotiations go forward.

To the extent that there needs to be some kind of legislative action here to make that happen, to continue that process, I think the type of changes that we have suggested to the bill would be very effective, even if you are targeting one country at a time, targeting Japan, which has 40 percent of the market, or targeting the country that is being the most recalcitrant in the negotiations, whoever that might be, is going to be an effective way of getting the negotiations going, moving and resolved.

I don't think dropping an Iron Curtain on day 180 after this bill is passed and having the kind of trade disruption that could result from two-thirds of the world fleet being subject to sanctions is going to help the negotiations. I think it will create more chaos than anything.

Chairman GIBBONS. Mr. Finnerty.

Mr. FINNERTY. Mr. Chairman, I, of course, would recommend the same sort of approaches that I had in my statement, but to add to that, I personally believe that the approach would be to address those major countries first, Japan, with 40 percent, and South Korea with 23 percent of the world market and the European Community with 20 percent.

Those countries alone, if addressed in a mechanism somewhat more flexible and improved version of title II of your bill, through negotiations, in a relatively near term, I think if governments really faced up to it on a bilateral basis, which could lead to a multilateral agreement, you could get results.

Chairman GIBBONS. If you could get results with Japan, you are greater than anybody I have ever met in the American Government around here. We have dealt with Japan for years and, frankly, our trade deficit with them continues to skyrocket and their evasiveness to any kind of import penetration increases with their age.

I don't know of any way to deal with them except very directly, and I have run out of all ideas I have in how to, frankly, to deal with them.

Mr. FINNERTY. Well, I am suggesting, Mr. Chairman, that it would have to be a direct discussion and, of course, at one point a number of years ago, Japan was one of the countries that the Federal Maritime Commission faced up to and entered into discussions with and, over a period of time, the problems that existed there in intermodal activities, terminal activities, and high cube containers were indeed resolved, and those aspects of the market for U.S. shipping companies were opened up and successfully improved.

I think if it were addressed in a similar way, that progress could be made.

I guess based on that, at the same time, that it is important, I think, that title I would not be needed in that process. It is, in a sense, completely apart from that title II approach and it ought to be dropped.

Mr. LOREE. Mr. Chairman, I think we candidly have to realize how we are looked at abroad when we are asking them to discontinue their subsidies. The best example I can come up with is a fellow who smokes three packs of cigarettes a day and then starts complaining about everyone else's secondary smoke and demands they stop smoking.

When I go abroad, people grab me and say, well, how do you justify the Jones Act building, how do you justify ad valorem, how do you justify the ad valorem duty on repairs, how do you justify title XI?

And I am afraid the next time I go abroad they are going to ask me how do you justify H.R. 2547, the National Shipbuilding and Conversion Act?

We are not necessarily standing there as holy innocents, and we have to realize that. Having said that, I still believe, I have faith in the OECD process, if there is a realistic, reasonable political approach, which I think should include a transition phase, and nothing right away, I agree totally with Jean Godwin. There should be a transition phase that sets a target date and then may be phased out 20 percent a year over 5 years. I think the political forces who are sitting around that table can buy that.

It is a little bit like announcing Hong Kong is going to move from British rule to PRC and it is going to happen in 1997. It gives them time to adjust, at least we hope it gives them time to adjust.

I think that is the problem here. The moment the Italian negotiators or the German negotiators and the European Community come back to their countries and announce that they are cutting out subsidies in 1995, or whatever this magic date is, is the moment they will be out on the unemployment lines themselves, and that is reality. I think the only way we can do it is with a phase-in.

And I hasten to add, I hope you are incorrect in judging the mood of the administration and the Congress. I think you know a lot more about the mood of the Congress than I ever will, but I think there is still a great chance that this country will face up to the investment it has in shipbuilding and the need to continue it.

And if that is the case, the idea of a phaseout occurring sometime in the future, say in 5 years, would give us time to bring our

yards up to speed before we run subsidies down. That is where I come from.

Chairman GIBBONS. Well, let me address the last problem first. We have been wrestling for a number of years now, probably 10 years, with the chronic deficit that seems to run about $300 billion a year.

If anybody comes into this room under the illusion that we are going to help anybody to any extent with their problems while we are dealing with a $300 billion deficit, you just don't understand the way we feel up here. We don't have the money.

We have got to get rid of the deficit, and we cannot create more obligations to undertake to help people with their problems.

We are desperate in the Ways and Means Committee to find ways not to spend money and to get the deficit down. So I don't see any way of anybody producing more subsidies for any industry in the United States, no matter how worthy it may appear to be to that particular industry. The money is just not going to be forthcoming.

I realize the administration does not yet have a policy. I realize that the Congress really does not yet have a policy, but we have a reality, and that is we don't have the money and there is no place to get it from. And we are going to keep pushing back to industries and to other communities, such as the port authorities, more and more responsibility for financing their own activities.

We have started that, it is going to continue and get heavier. But that is a reality we face right now.

I would like to work with you all, I have over the years, as Mr. Miller pointed out. I will make you an offer. I will wait until August 1.

Mr. LOREE. Which year?

Chairman GIBBONS. This year, for you to come forward with some specific amendments to the piece of legislation we have here, H.R. 1402. And then during that August recess, I will look at all the amendments and I will submit them to this subcommittee and to the full committee.

We will then have to see what happens.

As I go around the House floor, I find many people who say, go get them, Sam, we cannot put up with foreign subsidies anymore. I want to do it in a sensible manner. I support the international agreement on this because I realize how complex it is, but as I look at our position vis-a-vis the rest of the world, there is not the slightest incentive for them to negotiate an international agreement. They have pretty well demonstrated it.

And I don't see any movement on their part now.

So with that, I hope you all can cooperate. I will give you until August 1 to submit specific amendments to the proposal here, and after that we will have to see what happens.

Thank you all very much.

Mr. LOREE. Thank you, Mr. Chairman.

Ms. GODWIN. Thank you, sir.

Chairman GIBBONS. This concludes our hearing for the day on this subject and we will keep the record open until July 15 for anyone to correct any statements or add any additional statements.

Thank you very much.

[Whereupon, at 11:35 a.m., the hearing was adjourned.]

[Submissions for the record follow:]

COMMENTS

OF

AMERICAN FOREST & PAPER ASSOCIATION

ON

H.R. 1402

"THE SHIPBUILDING TRADE REFORM ACT OF 1993"

BEFORE THE SUBCOMMITTEE ON TRADE

COMMITTEE ON WAYS AND MEANS

These comments are submitted on behalf of the American Forest & Paper Association ("AFPA"), the national organization of the pulp, paper and forest products industry. Exports of these products constituted, in 1992, $17 billion, and are consistently one of the primary positive contributors to the U.S. trade balance. Our companies employ, directly and indirectly, more than 1.4 million Americans throughout the United States. AFPA members conduct operations in all states of the Union and are substantial users of ocean common carriers in international transportation. Therefore, AFPA and its member companies, as major shippers, have a substantial interest in this legislation.

AFPA OPPOSES H.R. 1402

AFPA is strongly opposed to H.R. 1402 because it would impose severe sanctions on the very vessels which carry our forest products to foreign markets.

The goal of H.R. 1402 is to reduce subsidies to foreign shipyards, a goal that is supported by AFPA. However, unilaterally imposing draconian penalties on vessels owned or registered in foreign nations that subsidize their shipyards, would be extremely injurious to U.S. exporters, and ineffective in obtaining the desired goal.

AFPA opposes H.R. 1402 because it would:

* Significantly reduce the ability of U.S. exports to compete by dramatically increasing costs of getting our forest products to world markets.

* Force many vessel operators to abandon US port calls, reducing and possibly eliminating vessel space for US exporters.

* Cause cargo to be diverted (at great cost to US exporters) from nearby U.S. ports to Canadian and Mexican ports.

* Create a tremendous cost disparity between delivery costs for US forest products, and delivery costs for foreign forest products.

* Threaten many more jobs in U.S. forest products, agriculture, coal, oil, and shipping industries than it could possibly save in the shipbuilding/repair industry.

* Impose unilateral U.S. sanctions on our trading partners which would invite foreign retaliation. The State Department has already warned that the bill would violate U.S. international commitments and invite retaliation by other countries.

INJURY TO THE US FOREST PRODUCTS INDUSTRY

Forest products constitute one of the most important export commodities in US international trade, even in the face of increasing worldwide competition. Foreign producers in virtually all continents produce paper, pulp, liner board, panel products, softwood and hardwood lumber. The foreign consumers of US forest products constantly balance the quality and price of our products against those of foreign-based suppliers. Often the decision as to sourcing is based primarily on price. In this environment, any significant increase in the delivered price of US forest products will result in a shift of sourcing away from US suppliers. The impact of such cost increases, in terms of lost sales, lost revenue and lost US employment, will be substantial.

Congress must carefully consider the impact of HR 1402 not only on the industry it intends to assist directly (US shipbuilders), but also on the wide spectrum of US export industries which will be impacted indirectly, yet severely. In fact, the employment represented by companies which comprise the membership of the American Forest & Paper Association is far greater than that of the US shipbuilding industry. And our industry is only one industry which would be injured by HR 1402 -- there are a number of other industries with US employment comparable to the forest product industry, which would also be injured. Thus, the danger of HR 1402 is that in its effort to represent the relatively few Americans who work in shipyards, the employment of hundreds of thousands of Americans in other industries would be threatened.

It is vital to our member companies which export price-sensitive cargoes in an increasingly competitive global marketplace, that our costs of delivery be kept to reasonable levels. Experience has clearly shown that when ocean transportation costs increase substantially, US forest products exports (and the employment we provide in the US) can decrease dramatically.

It is essential that our ocean transportation costs be similar to that paid by forest product exporters abroad. HR 1402 would immediately create a tremendous ocean transportation freight disparity between ourselves and our foreign competitors. The bill proposes penalties of $500,000 to $1 million per voyage per vessel for the US forest products. Meanwhile, those same vessels could carry Canadian or other forest products without such penalties.

If vessel operators serving the US forest products industry (and other US industries) cannot purchase and operate vessels at a competitive worldwide price, or if they must pay significant penalties in the U.S. for doing so, they will have no alternative but to pass those penalties on to U.S. shippers or forego calling at US ports. Yet the forest products industry of the United States is already locked in a battle for global marketshare even while dealing with diminishing harvests. This has resulted in price margins which simply will not allow for the absorption of million dollar fines.

Nor will our foreign purchasers be willing to absorb such assessments. Instead, they will simply look to our foreign competitors to supply them with the forest products they need.

NO SOLUTION TO FOREIGN SUBSIDIES

H.R. 1402 is no solution to the problem of foreign shipbuilding/repair subsidies because it penalizes the wrong parties. Under the legislation, fines ranging from $500,000 to $1 million per voyage would be levied on the ships which carry our cargo, not upon the governments of offending countries. Foreign governments and foreign yards are the parties involved in shipbuilding subsidies, not the U.S. shippers who must have an efficient means of getting our exports to foreign markets.

The International Trade Commission has concluded that even if the foreign shipbuilding subsidies targeted by H.R. 1402 are eliminated, the disparity in shipbuilding costs between the U.S. yards and foreign yards would continue to render U.S. yards uncompetitive. This is evidenced by the fact that U.S. yards have not built a ship in open competition with foreign yards for 33 years.

CONCLUSION

AFPA recognizes that the intent of H.R. 1402 is to stop foreign governments from unfairly subsidizing their shipyards. This is a laudable goal. Unfortunately, the impact on our industry and most other U.S. industries would be anything but positive.

Although AFPA supports the intent of this legislation, we believe that H.R. 1402 does not appropriately redress this problem. Through draconian penalties on ships calling on U.S. ports, H.R. 1402 would result in the devastation of the U.S. export community which already struggles to remain competitive in the world market place, while simultaneously failing to help the US shipbuilding industry it is designed to assist.

AMERICAN GREAT LAKES PORTS

The United States Members of the International Association of Great Lakes Ports

BURNS HARBOR Indiana
CHICAGO Illinois
CLEVELAND Ohio
DETROIT Michigan
DULUTH Minnesota
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LEWIS GULICK
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STATEMENT FOR THE RECORD

on

H.R. 1402, Shipbuilding Trade Reform Act of 1993

for the

House Ways and Means Trade Subcommittee

by

Kenneth J. Szallai, Chairman
American Great Lakes Ports
July 19, 1993

The American Great Lakes Ports include all the United States members of the International Association of Great Lakes Ports, an association formed in 1960 following the opening of the Great Lakes/St. Lawrence Seaway System. Our port range extends more than two thousand miles from Minnesota and Wisconsin in the West to Pennsylvania and New York in the East. We are dedicated to efficient waterborne transportation serving our agricultural and industrial heartland, both between Great Lakes ports and in trans-ocean commerce. A recent study for the St. Lawrence Seaway Development Corporation found that Seaway traffic accounts for more than 44,000 U.S. jobs.

While we share in the desire for an economically healthy U.S. shipbuilding industry, we believe H.R. 1402 would do more harm to America's maritime trade than it will do good for shipbuilders. We will not go into detail in this statement because similar views already have been ably expressed in oral testimony to the Subcommittee July 1 by representatives of nationwide port, U.S. flag shipping, and exporting organizations. That testimony demonstrated that the proposed heavy penalization under the legislation which could apply to much of the world's fleet coming to U.S. ports would have a seriously disruptive effect on U.S. trade.

In summary, we oppose H.R. 1402 in its present form because:

- It would impose U.S. antidumping and countervailing duty laws for the first time on ocean vessels coming to U.S. ports, even though they are serving just as carriers of goods, without themselves entering the domestic U.S. economy. The effect would be a serious deterrent to visits to U.S. ports for many ships.

- The mandatory $500,000 minimum fine for a visit by a vessel whose flag or ownership is from a blacklisted country would in effect be a prohibitive penalty.

- The ironclad nature of the administrative system for sanctions, such as the 180-day deadline within which an affected country would have to agree to eliminate shipbuilding subsidies, would impair the potential for negotiating subsidy reduction agreements.

- Retaliation can be expected by our trading partners, particularly since no restraint is placed on U.S. shipbuilding subsidies.

Of particular concern to American Great Lakes ports is the ease with which our cargoes can be diverted to nearby Canadian ports. Our international trade is carried almost entirely by foreign flag vessels. We are in direct competition with our Canadian neighbors. A cost or penalty imposed on a ship coming to a U.S. port can easily divert the vessel to an equally accessible Canadian port which does not impose this burden, and where trucks and railroads link actively with U.S. inland destinations.

We believe the diversion provision in H.R. 1402 would do little to remedy this serious impact. The provision fails to address U.S. exports, which we want to send through our ports rather than routing through Canada. It is probably virtually unadministerable on imported goods which have become intermingled in the Canadian economy, its potential extraterritorial application has already invoked a Canadian protest, and as the Deputy Special Trade Representative has testified, it appears to be GATT-illegal.

The U.S. Great Lakes Ports also have certain shipbuilding interests. Among the current goals of Great Lakes shipyards is the reciprocal removal of both U.S. and Canadian tariffs on ship repairs. Under the U.S.-Canadian Free Trade Agreement the existing tariffs will be gradually phased out, but we want to speed up the process. We believe we can get business repairing Canadian vessels. H.R. 1402 seems to go in the other direction. It does nothing about the present 50 percent U.S. tariff on repairs in foreign yards, and imposes potential penalties on ship visits to the U.S.

We are pleased that Chairman Gibbons is willing to consider amendments to H.R. 1402. We intend to be among those submitting specific suggestions for the Subcommittee's consideration at such time as it may act on the bill. We also have already proposed in appropriate Congressional forums a formula for helping the U.S. shipbuilding industry by means other than punitive legislation which would damage U.S. trade. A copy of our proposal is available to any who request.

In conclusion, we hope the Subcommittee will place its emphasis not legislation such as H.R. 1402, but rather on positive means for achieving a multilateral agreement to restrain shipbuilding subsidies and other distortive practices. A solution of this nature is in everyone's interest. We note STR's report that the OECD discussions will be resuming shortly with "some reasonable hope of quickly concluding the negotiations." We hope the Subcommittee will give the negotiators an opportunity to make this progress before moving legislation for unilateral U.S. action.

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STATEMENT OF THE COUNCIL OF EUROPEAN & JAPANESE NATIONAL SHIPOWNERS' ASSOCIATIONS (CENSA) BEFORE THE TRADE SUBCOMMITTEE OF THE COMMITTEE ON WAYS AND MEANS ON H.R. 1402

July 1, 1993

INTRODUCTION

The Council of European & Japanese National Shipowners' Associations (CENSA) is pleased to submit comments on H.R. 1402 in connection with the hearing before this Committee. CENSA is comprised of the National Shipowners' Associations of Belgium, Denmark, Finland, France, Germany, Greece, Italy, Japan, the Netherlands, Norway, Sweden, and the United Kingdom plus individual liner operators/container consortia from most of those Countries. In substantial measure, these countries and their shipowners represent a large majority of the trading partners of the United States.

I.

CENSA'S OPPOSITION TO H.R. 1402

Our Members have asked us to express to your Committee their profound opposition to this proposed legislation under which the United States would impose unilateral penalties on vessels flagged in or owned by citizens of countries which subsidize their shipyards for construction and repair. In CENSA's view, enactment of this legislation would cause serious and immediate harm to the economy of the United States, its trading partners and CENSA's members.

II.

CENSA SUPPORTS THE OBJECTIVE OF ELIMINATING SUBSIDIES

CENSA's principal objective has always been and continues to be the promotion of free access to shipping markets with the minimum of governmental regulation and intervention. With respect to the shipbuilding market, CENSA has supported policy objectives throughout the world which seek removal of the artificial distortions caused by government intervention in the form of direct grants, noncommercial levels of credit and artificial interest rates. In CENSA's view, so long as these government subsidies exist, which by their nature encourage excess shipyard capacity and over-ordering, overtonnaging will continue to exist. The problem of phasing out market distortions caused by shipyard subsidies raises difficult issues among nations, and such issues cannot be successfully addressed unilaterally. Only a multilateral approach will permit a resolution which does not disrupt international trade and commerce.

III.

A MULTINATIONAL AGREEMENT IS THE BEST AND ONLY SOLUTION

As the Committee is aware, multinational negotiations to arrive at an international solution of shipbuilding issues have been underway for the past several years under the sponsorship of the OECD. Like all multinational negotiations, the issues are complex and a resolution takes time. The United States has been a participant in these talks and has taken a strong lead. A general framework of an OECD draft agreement has been developed dealing with various substantive matters and which is intended to

preclude unacceptable measures and practices, such as export schemes, direct and indirect support to shipyards, and set forth measures to resolve disputes as to injurious pricing, among many other items. Such OECD talks have recently (June 22-23) resumed in Paris. In CENSA's view, a positive resolution of such talks best serves the interests of maintaining international trade and commerce among the nations without the disruption and adverse consequences which unilateral actions could impose. We note that H.R. 1402 agrees that a multilateral agreement among shipbuilding nations is the best means of providing for fair international competition [Title II, Section 202(7).]

IV.

TITLE I OF H.R. 1402 WOULD ESTABLISH A BAD PRECEDENT FOR INTERNATIONAL SHIPPING

H.R. 1402 is divided into two Titles. The first Title of H.R. 1402, Title I - Treatment of Vessels Under the Countervailing and Antidumping Duty Laws, would amend the Tariff Act of 1930 by categorizing vessels constructed and/or repaired outside the United States for U.S. owners as "merchandise" and applying antidumping and countervailing duties on the owners of vessels which were constructed or repaired overseas in a foreign country which is not signatory to an agreement with the United States providing for the elimination of dumping and subsidies. These duties would be assessed on entry of the vessel into the United States.

- U.S. and International Law and Practice Have Not Taxed "Instruments of Commerce" Such as Vessels

While Title I appears to address only United States persons, CENSA must express its concern with the adverse precedent this provision would create generally for international shipping. Title I would reverse the consistent law and practice under international law since the beginning of commerce among nations that instruments of commerce among nations such as "vessels" are not taxed as "merchandise".

Almost a century ago, the Supreme Court ruled definitively that a foreign built vessel capable of use as a means of water transportation is not a dutiable importation product. The Conqueror, 166 U.S. 110 (1897). The Harmonized Tariff Schedule clearly exempts vessels' from payment of duty. (HTSUS (1993), Chapter 89, Additional U.S. Note 1, 19 USC §1202.) Likewise, GATT treats vessels in international commerce as traffic in commerce and not subject to duties [Article V, Par. (1),(2) General Agreement on Tariffs and Trade]. Similarly, U.S. and international practice has long excluded from entry and duty requirements aircraft, (Section 7(c) of the Air Commerce Act of 1926; see also 49 USC 1509(c) (1988); vehicles, (19 USC §1322(a) (1988), 19 CFR §123.16(a); and containers and other shipping mechanisms such as vans, etc. [§322(a) of the Tariff Act of 1930, as amended, 19 USC §1322(a); 19 CFR 10.41.1(a)(1) (1992). By international agreement, containers have been likewise exempted. 1956 Container Convention, Article 2; 1972 Container Conference, Article 1; see also ITEL Container International Corp. vs. Huddleston, -U.S. -, 1135 S. Ct. 1095 (1993) at 1099. The obvious rationale behind this universal approach is to eliminate barriers to trade and facilitate international commerce among nations.

CENSA contends that the United States should not act to reverse the accepted rule of international law on the treatment of vessels as instruments of commerce.

V.

<u>TITLE II OF H.R. 1402 IS THE WRONG SOLUTION TO BRING ABOUT THE ELIMINATION OF SUBSIDIES</u>

The second title, Title II - <u>Fair Trade for the U.S. Shipbuilding and Repair Industry</u>, sets forth a legislative scheme which would impose extreme penalties on vessels of countries and their citizens which subsidize construction and repair of vessels. All the countries which have been involved in the OECD multinational negotiations would be statutorily listed as countries whose shipowners would be blocked from U .S. trade unless each country signed an agreement with the United States eliminating any subsidization of shipyards, as defined broadly in the legislation. All other countries would be subject to investigation and placed on the same list, if the Secretary of Commerce reasonably concluded that they engaged in subsidization. The term "subsidy" would be broadly defined, including home credits, and covering essentially any actions which could be deemed to have any impact on U.S. shipbuilders.

CENSA submits that enactment of this legislation and the sanctions contained therein are arbitrary in their application, endanger the possibility of reaching an international agreement, and would be contrary to international law and U.S. obligations. Title II would be a grievous misstep on the part of the U.S. By this unilateral act the United States would disrupt the worldwide multilateral trading system, bring a virtual stop to U.S. import and export trade, deprive its whole economy of jobs and future growth, and trigger a spiral of retaliation by the trading partners of the United States. Enactment of Title II would be an act of isolation by the United States with consequences not seen since the Smoot-Hawley Tariff Act of 1930, which many consider plunged the United States and the world into a worldwide depression.

Moreover, CENSA must observe that the language of the bill seems particularly designed in its restrictive language to preclude any solutions. Countries can escape its strictures only by entering into a trade agreement with the United States providing for the "immediate elimination of subsidies for the construction and repair of vessels (including the elimination of continuing benefits from prior subsidy programs)." This language seems designed to make any agreement or solution impossible. Agreements, whether bilateral or multilateral, involve reciprocity. The United States can hardly demand that other countries totally relinquish their subsidies, including the continuing benefits of past subsidies, unless the United States is also prepared to relinquish its shipyard support subsidies, including such provisions as the Capital Construction Fund, Title 11, transitional assistance such as that given under ARPA, domestic build requirements of the Jones Act and the benefits received by United States shipowners and shipyards of the past construction differential subsidy program.

A. <u>Title II is arbitrary in its application.</u>

- The proposed legislation would punish the wrong entities. Although the intent of the legislation would be to address subsidies which are given to shipyards, the burden of this statute would fall not upon the shipyard but on a shipowner of the country which gives the subsidy or on vessels registered in that country. It is the shipowner which loses. The bill thus penalizes the wrong party and in no way redresses the benefits which the shipyard has received.

- The bill exempts shipowners from third flag countries who can enjoy the benefits of the subsidized shipyard construction price. As a consequence, any owner not a citizen of the country which has a subsidized shipyard is free to enjoy the subsidized price and to use the subsidized vessel in U.S. trade under his own or the flag of another country. Thus, a citizen of Singapore (or of any other center of maritime activity where yards are not subsidized) could build a ship in a subsidizing country at the reduced price and sail it without penalty in U.S. trade.

- In further contradiction, Title II also punishes shipowners of countries which subsidize shipyards even if their vessels were built in another country. Indeed, a shipowner of a country which subsidized its shipyards would be subject to the penalties even if it built all its vessels in U.S. yards. These arbitrary and capricious results demonstrate that unilateral actions by individual countries neither protect domestic yards from competition nor produce solutions to offset shipbuilding benefits.

B. Title II endangers an international solution.

- The provision in Title II that each of the countries which have been negotiating as part of the OECD Council Working Group is statutorily placed on the list of countries whose shipowners will be penalized is not conducive to furthering multinational negotiations. To this must be added the bill's restrictive language on the scope of any agreement, which we have already noted. These points suggest that the United States may not in fact be interested in pursuing an international solution. We recognize that international solutions are difficult, but it is axiomatic that multilateral agreements provide the only lasting solution.

C. Title II is contrary to U.S. and International Law and U.S. Treaty Obligations.

- Essentially Title II imposes penalties on vessels of shipowners, by either barring the vessel from U.S. ports, reducing its sailings or cargo, or imposing dollar penalties, all because the country of the vessel owner grants a subsidy to its shipyards, a subsidy which the vessel and its owner may or may not have enjoyed. Such action not only is arbitrary, it is a departure from international practice that "instruments of commerce" are to be treated neutrally.

- Title II likewise offends the time-honored doctrine of freedom of seas, followed by the world community including the United States, which has recognized open entry to ports, without fines or vessel restrictions, except in time of war or emergency.

- The United States has further with its trading partners entered into Treaties of Friendship, Commerce and Navigation which require that national treatment be afforded the vessels of the other nation. The penalties in Title II would deny that national treatment.

- Finally, the bill's provisions are contrary to the provisions for free passage of vessels granted under Article V of GATT.

D. Title II would disrupt and halt U.S. import and export trade, lose jobs and undermine future U.S. economic growth.

- The sanctions and the threat of sanctions in Title II applicable within 180 days would essentially bring a stop to U.S. trade by creating a shortage of tonnage for U.S. exports and imports.[1]

- Currently over 96% of U.S. total ocean-water-borne commerce is carried in foreign flag vessels. With respect to liner trade, only approximately 18% of the liner trade is carried by U.S. flag vessels.

- Title II makes each of the member countries which participate in the OECD Council Working Group subject to the penalties within 180 days of enactment. These countries alone, based upon tables of the UNCTAD study "Review of Maritime Transport 1991" account for more than 46% of the worldwide fleet in 1990 and more than 55% of its tonnage. These numbers would be even higher if one takes into account the open registry vessels owned by citizens of a subsidizing country.

- The U.S. fleet is wholly inadequate to carry present U.S. exports and imports, and the forced withdrawal from U.S. trades of the fleets of the major trading nations of the world would disrupt and stop most U.S. trade and would force rates and costs of any remaining tonnage available for U.S. imports and exports to prohibitive levels.

- The ability of the U.S. to export (and import) is critical to the growth of the U.S. economy. As the recent U.S. Department of Commerce study shows, Merchandise exports contributed almost <u>all</u> job growth in the U.S. in the manufacturing industry from 1986 to 1990. In 1990, merchandise exports contributed 88% of the Gross Domestic Product (GDP) growth, and from 1986 to 1990 U.S. merchandise exports accounted for 41% of the rise in U.S. GDP (in 1982 dollars).[2]

- U.S. merchandise exports supported 25% of the growth in U.S. civilian jobs between 1986 and 1990, and in 1990 alone, merchandise exports accounted for 17% of the job growth.

- 19,100 U.S. jobs were supported by each $1 billion of U.S. merchandise exports in 1990 and the loss of jobs in the U.S economy as a result of the disruptive and stoppage of trade would be devastating.

- In addition to manufacturing jobs, jobs would be lost with respect to workers in mines, farms, forests and chemicals by the reduction of exports of coal, grain, forest products and chemicals by the lack of tonnage. These exports amounted to over 62 billion dollars.

- In addition to manufacturing jobs, obviously ports would lose employment as trade stopped.

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[1] CENSA sees no difference in practical terms in the impact between those penalties imposed on an "existing affected vessel" or a "new affected vessel".

[2] <u>U.S. Jobs supported by Merchandise Exports</u>, U.S. Department of Commerce, Economics and Statistics Administration, Office of the Chief Economist, April 1992, OMA Research Series 1-92.

- The interruption in the availability of vessels and resultant decline in trade would clearly result in U.S. consumers paying a higher prices for imports and reduce the standard of living of the whole U.S. economy.

- The inability of the United States to continue as a major trading nation would further have far reaching and disruptive impact on the whole world economy.

E. <u>Title II would trigger retaliation against U.S. vessels</u>.

- It is a fact of international commerce that unilateral attempts by one country to adjust in its favor mutual trade with another country invariably invites retaliation by its trading partner. The United States and European Community and the United States and Japan have each been repeatedly involved in such actions and counteractions. If H.R. 1402 is enacted, other nations will adopt protective measures for their citizens, including provisions similar to those of H.R. 1402. Existing fleets of U.S. shipowners would be at risk and existing U.S. flag vessels built with past financial assistance such as construction differential subsidy, Title 11 or CCF could become subject to retaliatory and preclusive penalties. Alternatively, other countries might retaliate by imposing restrictions on other industries or commodities. Once unilateral action is taken by one country, the political and economic pressures to respond in kind or by offsetting measures becomes difficult to resist. All such actions hurt trade and impact domestic economies. They do not help the goal of reduction of trade barriers between countries and they emphasize the desirability of a multilateral solution.

CONCLUSION

CENSA has a commitment to the development of international free markets, in which artificial distortions caused by governmental intervention to subsidize, protect or reserve sectors for specific commercial interests are eliminated. In CENSA's view the most effective way forward is through concerted multilateral action. This committee should, therefore, for the reasons set forth herein, not adopt H.R. 1402.

CENSA appreciates this opportunity to present its views on these important issues.

Respectfully submitted,

Council of European & Japanese
National Shipowners' Associations

July 1, 1993 By ______________________
Peter G. Sandlund
Washington Representative

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STATEMENT
BY THE HONORABLE PHIL CRANE
JULY 1, 1993

Mr. Chairman, I welcome the witnesses here today to discuss the difficult problem of eliminating unfair foreign shipbuilding subsidies. While I share your concern and frustration about the lack of progress in reaching an international agreement to curtail foreign subsidies, I strongly opposed H.R. 2056 last year, because it struck at shipowners and operators, and not the guilty foreign governments.

H.R. 1402, while a slightly different approach, continues to rely on the mechanism of unilateral sanctions. This, I think, will ultimately injure U.S. exporters and importers, as well as U.S. shipowners and operators. This bill also continues to disadvantage U.S. ports. They expect to face diversion of their business to neighboring ports in Mexico and Canada because the safeguard against this in H.R. 1402 appears to be unenforceable.

I look forward to the testimony today and to working with you, Mr. Chairman, and the Administration to solve this damaging trade problem.

DELEGATION OF THE COMMISSION
OF THE EUROPEAN COMMUNITIES

18 June 1993

The Honorable D Rostenkowski
US House of Representatives
Washington, DC 20515

Dear Mr. Rostenkowski,

We are writing to you on behalf of the European Communities and its Member States in relation to the Shipbuilding Trade Reform Act of 1993 (HR 1042) which we understand will be debated on the House floor in the near future.

This Bill threatens to impose sanctions on vessels built and controlled by nationals of and/or registered in listed countries that allegedly subsidise their shipyards or practice dumping. These sanctions, including penalties, refusal of customs clearance and reduction of port calls, could go as far as denying entry of all such vessels into US ports. Since such measures will apply to vessels owned by shipowners from these countries, or to vessels registered in them, whether those vessels have received subsidies or not, the remedy is not appropriate to the harm committed and is thereby unjustified. The sanction is also discriminatory since US vessels are exempted even if the same conditions are fulfilled.

This Bill would effectively create a "blacklist" of countries, the vessels from which would be denied entry to US ports unless the countries concerned (the ones negotiating in the OECD will be given priority) undertake to sign an agreement with the US which calls for immediate elimination of all subsidies. This constitutes an unacceptable pressure on the process of negotiations.

Moreover, the Bill appears to violate a number of fundamental provisions of the GATT. Thus, the unilateral extension of the reach of dumping and countervailing duty laws to cover vessels originating in countries which allegedly subsidise or dump ships on the US "market" would be inconsistent with GATT Article VI and existing GATT Codes. Likewise, prevention of the Customs clearance of a vessel because it comes from a "blacklisted" country would bring the US into conflict with international rules (Article V of the GATT) governing customs clearance and free transit of vessels.

2100 M Street NW 7th Floor Washington DC 20037 Telephone: (202) 862-9500 / FAX: (202) 429-1766

The European Communities share the view of the US government that there is an urgent need to restore normal competitive conditions in the world shipbuilding market.

Unfortunately, HR 1042 will not assist in this objective. Its provisions are much more likely to lead to a spiral of retaliatory countermeasures by the trading partners of the USA, including redress in respect of US practices, such as the Jones Act's provisions on domestic build requirements.

Instead of acting unilaterally, the USA should vigorously pursue with the EC a successful and expeditious conclusion of the OECD negotiations.

The international negotiating process which has been painstakingly put together over the last three years would be seriously jeopardised if HR 1042 became law. For this reason, we urge you not to support this far-reaching and potentially trade disrupting Bill when it comes to the House floor. Instead, we encourage you to use your good offices to support a quick resumption of the talks in order to reach a successful conclusion of the OECD negotiations.

Peter Dyvig
Ambassador of Denmark

Antonio Menduiña
Charge d'Affaires a.i.

Emergency Committee for American Trade 1211 Connecticut Ave Washington DC 20036 (202) 659-5147

June 30, 1993

Mr. Sam M. Gibbons
Chairman
Subcommittee on Trade
Committee on Ways and Means
1136 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Although ECAT does not have an official position on the ship building-subsidies bill, H.R. 1402, we did discuss it at a June 21 meeting of ECAT Washington Representatives. I simply want to pass along to you the concerns that were expressed at that meeting.

Two of our members, Sea-Land Service, Inc. and American President Companies, Ltd., would directly and adversely be affected by Title I. The unique application of U.S. antidumping and countervailing duty statutes to vessels owned by U.S. citizens that were built in foreign subsidized shipyards could cripple their ability to operate as U.S. firms. In effect, Title I would place U.S. companies in the position of paying the price for objectionable subsidies provided by foreign governments rather then penalizing the offending governments themselves.

Other U.S. firms also could find enactment of H.R. 1402 costly in that Titles I and II would lead to higher ocean shipping costs for them -- costs that would not necessarily be borne by their foreign competitors, thus worsening their global competitive position. These increased costs would follow not only from the provisions of H.R. 1402 but also from likely retaliatory measures that other governments would impose against U.S. ocean carriers.

As yourself, we would hope that negotiations with foreign subsidizers of vessel construction could lead to agreements not to subsidize. We are pleased that there are such ongoing negotiations, and hope that there are decent prospects for their successful conclusion.

Sincerely,

Bob McNeill

Robert L. McNeill
Executive Vice Chairman

Eureka
The Greater Eureka Chamber of Commerce

June 28, 1993

The Honorable Sam Gibbons
United States House of Representatives
Committee on Ways & Means
Attn: Janice Mays,
Chief Council
1102 LHOB
Washington, D.C. 20515

Subject: H.R. 1402, Press Release #10, Sub-Com. on Trade

Dear Ms. Mays:

The Greater Eureka Chamber of Commerce is concerned about the possible impacts on our port (and other ports in California) if H.R. 1402, in its introduced form, should be enacted.

We understand that the goal of the legislation is to create a level playing field for the US shipbuilding industry in the world marketplace and to preserve jobs that are threatened or have been eliminated by unfair subsidized foreign competition. However, approaching this inequity in the shipbuilding industry by providing for the imposition of penalties, as specified in Section 204, will have a devastating impact on the port of Humboldt Bay, California, and we contend, on every other port in California and the contiguous US. We feel that Sec. 204 (b) (4) will not force compliance with the intent of the bill and that the maritime industry in our port will come to a virtual standstill, causing a greater unemployment problem than is be attempted to correct by the bill.

We urge that these trade remedies be sought under the existing trade negotiation procedure and not through the legislative process.

The Greater Eureka Chamber of Commerce is opposed to H.R. 1402 in its present form and urge that it be amended so as not to harm existing trade now passing through the Port of Humboldt Bay.

Sincerely,

Charles F. Goodwin, Jr.

Charles F. Goodwin, Jr.
Executive Vice President

CG:hs

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STATEMENT OF IADC ON H.R. 1402

The International Association of Drilling Contractors (IADC) opposes the purposes and application of H.R. 1402, the "Shipbuilding Trade Reform Act of 1993".

IADC represents virtually the entire worldwide offshore oil and gas drilling fleet, which includes equipment considered "vessels" by various definitions in U.S. law. These vessels must necessarily migrate in search of work around the globe, where they are employed on a relatively short-term basis to seek and identify undersea hydrocarbon resources. From time to time, these vessels can be expected to require highly specialized modifications provided only in foreign shipyards to remain commercially viable in fiercely competitive markets. Similar modifications may be mandated by governments in foreign markets, or by actions of the International Maritime Organization. These same vessels may be forced to seek repairs in "subsidized" foreign yards to remain seaworthy when working far afield from U.S. shores.

IADC has consistently supported the maximum possible free trade for drilling services, and to the extent that the offshore drilling industry is still largely dominated by U.S. companies, this legislation could invite retaliation which might operate to foreclose lucrative foreign markets to these struggling U.S. drilling companies.

Moreover, these companies are effectively foreclosed from working in most U.S. waters because of Presidential and Congressional moratoria on OCS oil and gas leasing.

Yours respectfully,

Brian T. Petty

Brian T. Petty
Senior Vice President -
Government Affairs

INTERTANKO

(International Association of Independent Tanker Owners)

STATEMENT OF INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS REGARDING THE SHIPBUILDING TRADE REFORM ACT OF 1993 (HR 1402) BEFORE THE SUBCOMMITTEE ON TRADE, HOUSE WAYS AND MEANS COMMITTEE

JULY 1, 1993

The International Association of Independent Tanker Owners (INTERTANKO) is a non-profit organization comprised of over 300 member companies from 35 countries, including the United States. INTERTANKO members own or operate some 1,800 tankers of 165 million dwt. This is more than 80% of the world's independently owned tankers. The ships of INTERTANKO's members operate in all oceans of the globe and serve every coastal state. INTERTANKO's office is located in Oslo, Norway.

INTERTANKO's primary mission is to represent independent vessel owners in regard to technical, operational, environmental and economic matters associated with the international movement of liquid cargoes in bulk. INTERTANKO also provides research, assistance and advice to national administrations regarding marine oil transportation issues. INTERTANKO is an accredited non-governmental advisor to various United Nations organizations as well as public and private multinational groups.

As a general principle, INTERTANKO strongly supports treaties and national legislation that harmonize maritime law, facilitate trade, and do not unduly burden international shipping. INTERTANKO also supports high standards in commercial efficiency, safety and pollution control and promotes initiatives that serve those ends.

INTERTANKO supports the goals of HR 1402. INTERTANKO opposes shipbuilding and repair subsidies. Shipyard subsidies distort the international shipping market by creating incentives to build or repair vessels even when prevailing market conditions do not justify such undertakings. Subsidies also give certain owners an inequitable advantage. Subsidies in one country lead to further subsidies in other countries, and unless checked can lead to a subsidy race. The result is a distortion of competition among shipyards, an enormous waste of taxpayers' money, an oversupply of vessels and unprofitable rates which combine to harm shipowners and shipyards alike.

However, HR 1402 creates serious problems for shipowners in its attempt to address shipyard subsidies. This legislation will essentially exclude from U.S. ports any vessel owned or registered in a country which provides direct or indirect subsidies to their shipyards. This penalty is assessed whether or not a particular shipowner received any benefit from a subsidy or even knew that a domestic subsidy program existed. HR 1402 punishes the wrong party. If enacted, it will definitely disrupt U.S. foreign trade, increasing the cost of transportation in the process, but without stimulating demand for American shipbuilding.

The decision on whether or not to subsidize shipbuilding rests with Governments. Therefore, any effort to eliminate these competition distorting measures must be directed at Governments. It is recognized that the multinational negotiations in OECD's Working Party No. 6 have not yet produced the desired results, but the inability for governments to come to an agreement does not justify measures which punishes innocent shipowners.

Shipowners and shipyards both suffer due to the problem of subsidies. The United States should seek international solutions to an international problem, or at least make the offending governments the sole target of its legislative actions. INTERTANKO is ready and willing to work with the United States to address this issue and find a solution that benefits all parties and returns the marketplace to free and open competition.

July 1, 1993

WRITTEN STATEMENT FOR
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

UNITED STATES HOUSE OF REPRESENTATIVES

ANDE ABBOTT
DIRECTOR OF SHIPBUILDING & MARINE DIVISION

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS AND HELPERS AFL-CIO

JULY 1, 1993

TOPIC: H.R. 1402
SHIPBUILDING TRADE REFORM ACT OF 1993

The International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths Forgers and Helpers, AFL-CIO, on behalf of our 85,000 members would like to express, for the record, our strong support for H.R. 1402, the Shipbuilding Trade Reform Act of 1993. Many of our members' jobs are dependent on shipbuilding and repair, either directly in the shipyards or in companies which forge or manufacture marine equipment and material.

The shipbuilding and ship repair industry has been in rapid decline since 1981 when President Reagan cancelled funding for the Construction Differential Subsidies, leaving the United States shipbuilding and repair industry to compete with heavily subsidized foreign shipbuilders. As a result, 120,000 shipyard and shipyard related jobs have been lost and our commercial shipbuilding industry has collapsed.

Those shipyards which have survived have done so by dedicating themselves to the construction and repair of ships for the U.S. Navy. However, budgetary constraints and shifts in military strategy have forced a reduction in construction and repair work for the Navy. The Navy's current six year budget for shipbuilding and repair will result in the loss of an additional 180,000 shipyard and shipyard supplier jobs by 1997. By the end of the decade, there will only be one or two major shipyards left in the United States. Therefore, it is imperative that the United States recapture a share of the commercial shipbuilding and repair market.

In order to achieve this goal, the United States shipbuilding and repair industry has been working with the Office of the U.S. Trade Representative for four years in an effort to achieve an international agreement to eliminate foreign shipbuilding subsidy and dumping practices. Unfortunately, these negotiations have failed, and foreign governments continue to pour massive subsidies into their industries while American shipyards issue layoff notices or shut their gates.

The primary reason for the failure in the negotiations is that foreign governments have no incentive to stop their shipbuilding subsidies, and the U.S. Government has little leverage in the talks because our subsidies were unilaterally terminated twelve years ago. Japan, Korea, and the European Community have stone walled our trade negotiators for too long. Now is the time for the U.S. Government to demonstrate its resolve to end these predatory practices.

In view of the collapsed negotiations, enactment of H.R. 1402 is the only remaining alternative to bring about free trade in the manufacture of ships and to sustain the U.S. shipbuilding industrial base. H.R. 1402 embodies much of the draft trade agreement which our foreign competitors have refused to sign. The definition of subsidies is the same as that contained in the agreement, and like the agreement, the legislation provides for sanctions if foreign governments continue to subsidize their shipyards to the detriment of American companies and American jobs. The sanctions of H.R. 1402 would not apply to any country which signs a trade agreement to eliminate its unfair trade practices. Thus, it provides foreign governments with an incentive to negotiate, and it provides U.S. Trade negotiators with the leverage they currently lack to bring home a good agreement.

Some shipowners will argue that the American shipyard worker should not have access to the same trade remedies which are available to every other American worker engaged in manufacturing. Our union, and the 21 other Metal Trades unions which support this legislation, strongly disagree. Current U.S. countervailing and antidumping trade laws allow all U.S. manufacturers -- except shipyards -- to file subsidy and dumping cases with the U.S. Commerce Department when U.S. citizens purchase goods which have been subsidized or dumped on the U.S. market. Shipyards have been denied this protection because of an old 1890's court case which deemed that a ship was not "merchandise", and thus not subject to U.S. CVD and AD trade laws. This case further deemed, and it remains law today, that a ship should not be covered by these trade laws because it is not imported into the United States. Yet, ships calling at U.S. ports must report to U.S. Customs just like all other products being imported into the United States.

Last year, some U.S. ports expressed concern with an earlier version of this bill, H.R. 2056, that the legislation would cause ships to call at Mexican and Canadian ports rather than U.S. ports, and that their cargo would be transhipped via land into the United States. This argument was always viewed as a "red herring" by those knowledgeable of the realities of shipping. First, H.R. 2056 grandfathered every ship in the world's fleet. Second, the sea leg of transportation is the cheapest of all other means. Third, for cargo diversion to occur, the capacity and facilities of foreign ports and the land transportation infrastructure to distribute cargo to its final destination would have to be dramatically, and instantly, updated. Lastly, the additional cost of transporting huge amounts of cargo by rail or truck would have to be less, over the entire life of a ship, than the amount of the subsidy in the ship's construction and financing.

Even though we disagree with the contentions of these ports, H.R. 1402 has been amended to address their specific concerns. The bill grants the Commerce Department authority to direct the U.S. Customs Service to prevent the transhipment of cargo into the U.S. via Canada or Mexico, if that cargo is carried on an effected vessel. U.S. Customs currently has this authority under Section 19 of the Merchant Marine Act and the Foreign Shipping Practices Act. Consequently, all U.S. ports should now support this legislation, unless their main objective is to simply side with ship owners who want to continue to have access to subsidized ships.

Opponents of this legislation and an international trade agreement, have maintained that American shipyards could not compete even if subsidies were eliminated. This is simply not true. The American shipyards and their workers produce the most technologically advanced naval ships in the world -- and at a very competitive price. Wages for our shipyard workers rank seventh in the world. Two of the leading commercial shipbuilding countries in the world, Japan and Germany, both pay their shipyard workers more. The reason they can do this and still compete is due to the subsidies from their governments. We can compete with any foreign company, but we cannot compete against the treasuries of foreign governments.

The longer the United States shipyards are void of commercial contracts, the greater the loss of skills and necessary manpower. The country can not wait for the need to arise and casually expect the skills and ability to be in place. Shipbuilding is a very complex process that can not be taught in a day, a week or even a year. It will be difficult now for some yards to get back into commercial construction because of the loss of skilled manpower. The longer Congress waits to act, the more difficult it will be to retain the skilled work force necessary to enable American shipyards to once again be producers of commercial ships for the world market.

In 1980, the shipyards in the United States employed 187,000 workers. Today there are approximately 100,000 workers in the industry. Projections indicate that by 1998 there will only by 28,000 workers still employed directly in shipyards. Just after the beginning of W.W. II, 28,000 workers would be the approximate workforce in <u>one</u> shipyard. The technologically advanced ships which carry our commerce and protect our oceans today, could not be built in sufficient quanity to be effective in times of international crisis. Weakening of our shipbuilding base weakens our independence as a sea power in the world and our national security. Additionally, without the specialized manufacturing capability needed to support our shipbuilding and repair industry, it could be impossible to respond in times of national emergency.

Shipbuilding and ship repair work is not confined to the waterfront. Shipyards use huge amounts of material. Shipyard suppliers are in all but two of the 50 States. According to the Congressional Budget Office, for each direct shipyard job, there are three jobs created elsewhere in the economy. Foreign shipbuilding subsidies are stealing jobs from the manufacturing plants throughout our country and robbing us of our maritime supplier base. Already, there no longer exists a U.S. manufacturer of slow speed diesel engines. It is important for every member of Congress to recognize that the fate of American shipyards is important to the nation as a whole-- it is not just an issue for coastal states.

The world demand for commercial ships is expected to rise dramatically in the later part of this decade. Between now and the year 2000 it is anticipated that $450 billion will be spent on ships. Access to this market represents a true conversion opportunity for the shipbuilding and repair industry. If we can capture even 10 percent of this market, our industry will provide thousands of labor intensive jobs and generate billions of dollars in the local and national economy. The shipbuilding industry has meant jobs and job training for our inter-city youth for over two centuries. It has provided jobs in manufacturing plants in virtually every state in our nation. From steel to sand blasting grit, from insulation materials to electronic equipment, the shipbuilding industry is a high technology, labor intensive, material intensive industry which can provide a foundation for sustained long-term economic growth. To get there, however, foreign government subsidy practices must be eliminated, and eliminated now, before it is too late.

Thank you, Mr. Chairman, for your leadership on this critical legislation. American craft unions strongly supports H.R. 1402, and urges the Congress to pass this legislation with no further compromises which could severely weaken its objective--which is to drive home an international trade agreement which will end the market distorting foreign shipbuilding subsidies.

ICCL
INTERNATIONAL COUNCIL
OF CRUISE LINES

Carnival Cruise Lines
Celebrity Cruises
Commodore Cruise Lines
Costa Cruise Lines NV
Crystal Cruises Inc
Cunard Line Ltd
Dolphin Cruise Line
Epirotiki Lines Inc
Fantasy Cruises
Holland America Line
Norwegian Cruise Line
Premier Cruise Lines
Princess Cruises
Royal Caribbean Cruises Ltd
Royal Cruise Line
Royal Viking Line
Sun Line Cruises
Windstar Cruises

Statement on Behalf of the

International Council of Cruise Lines

for the JULY 1, 1993, Hearing

of the Subcommittee on Trade

of the Committee on Ways and Means

U.S. House of Representatives,

Regarding H.R. 1402, the

SHIPBUILDING TRADE REFORM ACT of 1993

July 1, 1993

1211 Connecticut Avenue, N.W. • Suite 800 • Washington, D.C. 20036 (USA) • TEL (202) 296-8463 • FAX (202) 296-1676

The International Council of Cruise Lines (ICCL) is a non-profit trade organization. Our members are both American and foreign-owned companies engaged in the overnight, oceangoing cruise industry. Our membership accounts for approximately 90% of the worldwide passenger cruise industry capacity. We operate more than seventy-five vessels which this year alone will carry more than four million passengers.

As members of the international cruise industry, we carry on a long tradition of freedom of the seas and freedom of trade. Our members sail on all of the oceans and seas of the world and are substantial contributors to the economies of all the nations with which we come in contact. As members of a truly international industry and with a significant interest in the growth and expansion of the United States economy, we are highly desirous of working constructively with the Congress on matters of concern to the United States. In our view, the issue of shipbuilding subsidies is not only economically and politically complex, but it is international in scope. Any action that restricts the freedom of the seas and the freedom of international trade is obviously not in our commercial interests. In our view, the shipbuilding subsidy situation cannot be effectively addressed by reliance on unilateral sanctions as contemplated by H.R. 1402 and therefore we cannot support this approach in our desire to work with the Congress in finding a solution to this problem.

The proper place to address issues of international trade is through multilateral government-to-government negotiations. International bodies such as the General Agreement on Trades and Tariffs (GATT) and the Organization for Economic Cooperation and Development (OECD) exist to address the very situations such as that which H.R. 1402 seeks to address. Unilateral attempts by any government to address international trade disputes will weaken the multilateral mechanisms in place and erode rather than strengthen international trade. Such a result would impede the growth of the cruise industry and could accordingly have a negative impact on the rapidly growing contribution our industry makes to the U.S. economy.

We are proud of the contribution our industry is currently making to the United States domestic economy and look forward to increasing this contribution in the future. We create employment for hundreds of thousands of Americans and we are responsible for billions of dollars each year in wages and taxes, as well as payments to suppliers, travel agents, and U.S. airlines.

Price Waterhouse, in a recently completed major study, confirmed that the cruise industry will add 134,712 full-time jobs to the U.S. economy in the next four years, on top of the 450,166 U.S. jobs it already provides. Price Waterhouse confirmed that in 1992 our industry generated $14.5 billion in U.S. wages and $6.3 billion in domestic tax revenues. Price Waterhouse projects an additional $4.3 billion in wages and $1.9 billion in taxes by 1996, based on estimated capacity growth of 6.8 percent annually.

This multi-billion dollar impact of wages and taxes is a conservative estimate by Price Waterhouse, because it only counts the 'value added' component and none of the raw materials -- such as fuel and agriculture products that the industry uses. Among Price Waterhouse's specific findings for 1992:

* The cruise industry created 63,168 core sector jobs and 71,612 supplier sector jobs, for a total direct impact of 134,780 jobs. Expenditure-induced (ripple effect) jobs number 315,386, for a total economic impact of 450,166 jobs.

* The industry created more than $2.2 billion in core sector wages and $2.3 billion in supplier sector wages, for a total direct impact of $4.6 billion in wages. Expenditure-induced wages were an additional $9.9 billion, for a total impact of more than $14.5 billion.

* Cruising generated $519.6 million in state and local taxes and $1.6 billion in federal taxes, for a direct impact of $2.1 billion in taxes. Expenditure-induced taxes were $944.6 million for state and local governments, $3.3 billion for federal coffers. The total tax impact: $6.3 billion in federal, state, and local taxes generated.

Price Waterhouse reported that of the total impact of $20.8 billion in the U.S., seven continental U.S. port cities -- Miami, Los Angeles, New York, Port Canaveral, Fort Lauderdale, Seattle, and Tampa -- share $2.7 billion ($1.9 billion in wages, $819.6 million in total taxes and fees). The other $18.1 billion economic impact was spread throughout the economy in every industrial sector. Among the industries enumerated: transportation and utilities; services; manufacturing; agriculture; mining and construction; finance, insurance, and real estate; and government.

The cruise industry is a partner in America's economic growth and has been for more than two decades. Our expansion will help continue the growth with more jobs, more wages, and more tax revenues in the years to come. We want to work hand-in-hand with Congress to assure that this economic impact continues to benefit the U.S. A projected growth estimate of 6.8 percent compounded annually is conservative because it does not include the most recent expansion projects. From 1980 through 1991, the industry has grown 9.8 percent annually, and there is no reason to expect a slowdown now, barring political or economic obstacles.

If, despite the concerns expressed by ourselves and others, you decide to proceed with the type of legislation contemplated by the current draft of H.R. 1402, we would respectfully submit that amendments should be adopted to make the bill more targeted on the perceived problem and not as punitive to the shipowner. Foreign governments are responsible for shipbuilding subsidies. Foreign shipyards are the primary beneficiaries of shipbuilding subsidies. Subsidies represent a complex domestic situation within a country which spills over into the international trade relations between governments. The shipowner as a purchaser in an international market should not be the target.

Specifically, we have the following concerns and suggestions about certain sections of the bill:

1. The bill already contemplates "grandfathering" existing ships and contracts, but as drafted it could cover existing vessels under certain circumstances. We believe that <u>any</u> retroactive application of such legislation would cause a serious injustice to shipowners who acted in compliance with all existing laws only to be "punished" for their lawful

behavior after the fact. In addition, since the proposed legislation is designed to discourage future behavior, it is illogical to apply it to past actions which the shipowner can no longer change. Accordingly, we urge that the bill be amended to provide that all ships built or contracted for on the date of enactment be excluded from the purview of the bill.

2. Vessels should not be categorized as merchandise and placed under the tariff laws for antidumping and countervailing duty purposes. The antidumping and countervailing duty laws designed to protect the U.S. market authorize imposition of duties on "imported merchandise" dumped and resulting in injury to a U.S. industry. Such duties are not directed at articles, such as ships, present in the U.S. that have not been imported for consumption. U.S. and international laws and practice have long recognized the special role played by oceangoing vessels, aircraft, and other means of transportation used to convey goods in international trade. These dispensable vehicles for trade are considered "instruments of international commerce" and not "imported merchandise" subject to import procedures or payment of import duties. Therefore, they never have been subject to the duties applicable to imported merchandise.

3. It would be advisable to address inadequacies in Section 301 Remedies rather than adopt another statutory scheme. It is provided in Section 301(d)(2) of the 1975 Trade Act, as amended:

   > "An act, policy, or practice of a foreign country that burdens or restricts United States Commerce may include the provision, directly or indirectly, by that foreign country of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States."

   Accordingly, there is a statutory framework to address the U.S. shipbuilding industry unfair trade complaint. If for any sound reason that framework is not working properly, we submit that allegation should be addressed rather than the H.R 1402 approach of additional investigations, sanctions, appeals, and the cost and bureaucracy associated therewith. Consistent with our view that this is a timely international issue, we urge that a careful analysis and, if necessary, amendments be made to Section 301 procedures. If for example, it is contended that the Section 301 approach takes too long to reach a formal decision that problem could and should be addressed; or if the burden of establishing injury to a domestic U.S. industry is too onerous -- that could be examined. Any approach short of Section 301 modifications (particularly the proposals of H.R. 1402) will clearly invite serious international retaliation.

4. The treatment of sanctions in H.R. 1402 should be carefully reviewed and amended to provide for some flexibility in their application, particularly where multilateral subsidy reduction negotiations are underway and without mandating a minimum level of sanctions

that would be applicable in any given situation. The Secretary of Commerce should be authorized to investigate, and where appropriate, take action consistent with findings.

CONCLUSION

Trade matters among sovereign nations can best be resolved through international cooperation and agreement. Multilateral efforts have already resulted in a reduction of shipbuilding subsidies from a maximum of 30% to a maximum of 9% today. Our interest is to work with the Congress and the international community in reaching an agreement that will stimulate international trade and encourage, foster, and expand the economic contribution the international cruise industry makes to the United States.

Thank you for this opportunity to make known our views and to reiterate our willingness to work with you and the international community to reach an international solution in the best interests of all parties.

TESTIMONY OF

JACK P. JANETATOS, CHAIRMAN
AND
JAMES P. FROMFIELD, PRESIDENT

MARINE MACHINERY ASSOCIATION

BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS

July 1, 1993

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting us to submit this written testimony in support of H.R. 1402, the "Shipbuilding Trade Reform Act of 1993."

This legislation recognizes the serious decline that has taken place in our American shipbuilding industry. With the near disappearance of commercial shipbuilding in the United States, our industry has been reduced to being almost exclusively a supplier to the Navy. Now with the sharp decline in the need for Navy ships, our shipbuilding industry faces a further decline. As H.R. 1402 recognizes in Section 210(a)(5), our country has lost more than 120,000 jobs in the shipbuilding industry since 1981 and faces the loss of another 180,000 if something isn't done before it's too late.

It should be made clear that these 300,000 jobs referred to in the Bill are not only jobs in the shipyards; they include in major part the jobs of workers in the manufacturing plants that provide the material the shipyards assemble into ships. These are the jobs of the people who manufacture the machinery and equipment that go into the ships.

The Marine Machinery Association is the trade association representing the manufacturers of this machinery and equipment. Our producers of marine hull, mechanical, electrical and electronic equipment are an integral and essential part of our nation's shipbuilding industrial base. They provide the majority of the jobs which will be lost unless something is done to bring about some preservation of what is left of shipbuilding in our country. These jobs and these manufacturers are as likely to disappear for lack of business as the shipyards themselves.

If there is any national interest to be served by preserving a shipbuilding industry -- and we are convinced there is -- then that interest will be served no less by the preservation of the manufacturing capability in our factories than it is by the preservation of the assembly capability in our shipyards. Indeed, if our nation loses its shipbuilding industry and we later need to reconstitute it, we might indeed find it more difficult to restore the marine manufacturing industries than the waterfront assembly capability.

Our manufacturers support H.R. 1402 because an improvement in business for our shipyards is a necessary precursor to an improvement in business for our manufacturers. Our businesses won't survive unless theirs do. But our businesses won't necessarily survive and prosper if you help the shipyards without helping us.

The last ocean-going merchant ship to be completed in this country was assembled in a Southern California shipyard by workers whose jobs this bill is designed to save. But that ship was built to a Danish design, with a Japanese diesel engine, Norwegian steering gear and bow thruster, Finnish diesel-generators, and a German propeller. Saving the jobs of those shipyard

workers won't necessarily have an equally favorable impact on the jobs of the manufacturers of American machinery and equipment.

Under current law, a vessel is considered as United States built if the major components of the hull and superstructure are fabricated in the United States and the vessel is assembled entirely in the United States. There is no restriction whatsoever on the use of foreign machinery and equipment in this assembly operation. The shipyards can and do import foreign machinery and equipment into their yards which have been designated Foreign Trade Zones and assemble those foreign products made with foreign labor and materials into ships and we then call them "United States built." Indeed, this foreign machinery comes into the United States, is assembled into a ship, and never incurs any import duties.

There can be no doubt that foreign governments are subsidizing their marine manufacturing industries so that the machinery and equipment used in foreign built ships and in the Foreign Trade Zone shipyards in the United States is subsidized. For example, there have already been countervailing duty cases against: anti-friction bearings from Singapore; ball bearings from Turkey; bolts, screws and nuts from Japan; brass imports from Brazil and France; chains from Italy, Japan and Spain; compressors from Italy; forged steel crankshafts from Brazil; industrial belts from Israel, Singapore, and South Korea; steel from various foreign source countries; and aluminum from the United Kingdom. Anti-dumping cases have been brought against: ball bearings from various foreign sources; steel from various foreign sources, forged steel crankshafts from Brazil, Germany and Japan; and industrial belts from various foreign sources.

Accordingly, our marine manufacturers need the coverage of H.R. 1402 extended not only to the countries that provide subsidies for the construction and repair of "vessels," but also to "vessels, their machinery and equipment." Thus, an "affected vessel" would include not only those built with a subsidy, but also those which contain machinery and equipment manufactured with a subsidy.

We believe that this new law ought also to provide that marine machinery brought into U.S. shipyards for inclusion into ships should be free of the taint of foreign subsidies. Therefore, not only should the arrival of a vessel in a U.S. port trigger operation of the new law, but also the arrival of subsidized machinery to be incorporated into a ship should be covered.

There are at the moment a number of government programs aimed at resurrecting the commercial shipbuilding industry in the United States. H.R. 1402 is but one of the needed measures. The current shipbuilding research and development program being managed by the Defense Department's Advanced Research Projects Agency under the Defense Conversion, Reinvestment, and Transition Act of 1992 is another example of needed Government effort. But even with these helpful actions, commercial shipbuilding must be regarded as a start-up industry. Our manufacturers are presently producing very little machinery and equipment for commercial ships, while their foreign competitors are set up for volume production and able to undersell our companies. Protection against subsidized machinery and equipment will not be the whole answer, but it will certainly be a good start.

THE MARINE MACHINERY ASSOCIATION

Jack P. Janetatos
Chairman

James P. Fromfield
President

STATEMENT OF THE
NATIONAL COAL ASSOCIATION
AND
COAL EXPORTERS ASSOCIATION

BEFORE THE U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS

ON H.R. 1402
"SHIPBUILDING TRADE REFORM ACT OF 1993"

The National Coal Association (NCA) and its affiliate, the Coal Exporters Association (CEA) thank you for the opportunity to submit written comments on H.R. 1402, "The Shipbuilding Trade Reform Act of 1993".

NCA is an organization that represents coal producers, coal exporters, equipment manufacturers, resource developers, coal-burning utilities and transporters of coal. NCA's coal producer members represent approximately 70 percent of the coal produced in all regions of the United States and NCA members serve all coal markets.

CEA members represent coal producers that export coal as well as coal brokers. These companies represent approximately 80 percent of the coal that is exported from the United States.

In 1992, the United States was the second largest coal exporter worldwide exporting 102 million short tons to more than 40 countries including Canada. This contributes more than $4.2 billion to the positive side of the trade balance. Coal exports are the third largest commodity, after wheat and corn exported from the United States. In terms of volume, coal is the largest commodity exported. Australia, Canada, South Africa and Columbia are major U.S. competitors. Typically, about 10 percent of the coal produced in the United States is exported.

More than 20,000 direct coal mining jobs are dependent upon the export of U.S. coal. Coal exports are critical to the economies of West Virginia, Virginia, Kentucky, Pennsylvania, Alabama, Utah and Alaska. Coal exports move through the ports of Baltimore, Hampton Roads, Los Angeles, the Great Lakes, Mobile and New Orleans.

IMPACT OF H.R. 1402 ON COAL EXPORTS

U.S. coal exporters are very aware of foreign shipbuilding subsidies and the resulting challenges for U.S. shipyards. Unfortunately, subsidies exist in many industries. U.S. coal exporters must compete with coal that is produced in countries that either subsidize coal for export or subsidize domestic production or transportation thereby closing markets to U.S. coal. We support efforts to create a level playing field in international commerce by eliminating these subsidies.

However, we cannot support H.R. 1042, a legislative effort that blatantly benefits one industry...shipbuilding...while in effect totally disrupting U.S. export and import industries.

NCA and CEA are encouraged to learn that the United States and major shipbuilding countries have agreed to resume the multilateral negotiations to eliminate shipbuilding subsidies that are being held through the Organization for Economic Cooperation and Development (OECD). The problem of phasing out, with the goal of

eliminating shipbuilding and repair subsidies, raises difficult issues among nations and these issues cannot be addressed unilaterally. Only a multilateral approach will reach a resolution which does not disrupt international trade and commerce.

H.R. 1402 compounds efforts by the United States government to open markets by creating a unilateral, sector-specific trade remedy that will disrupt international trade. Specifically, Title II requires the Secretary of Commerce to list all countries that subsidize their shipyards and 180 days later impose severe sanctions against vessels flagged or the controlling interest which is held by citizens of those countries. The penalties include reducing the sailings to U.S. ports by 50 percent and/or a minimum $500,000 per voyage fine. These sanctions would severely affect more than two-thirds of the world's fleet.

The increased cost of transportation and the withdrawal of the vessels from U.S. service would be particularly damaging to coal exports because very few ships, if any, would be available. Typically coal moving to Europe and Japan is shipped on vessels carrying 100,000 tons of coal. The minimum $500,000 fine would add approximately $5.00 per ton to the delivered cost of U.S. coal. Of the 102 million short tons of coal exported last year, customers arranged for the shipment of more than 75 million short tons. Customers would not willingly pay additional ocean freight costs just to purchase U.S. coal. And U.S. coal exporters are not in the position to absorb the additional costs. As a result, U.S. coal would be forced completely out of the international market and traditional foreign purchasers of U.S. coal (utilities, steel mills, and other industrial users) would turn to competing countries that permit the free flow of vessels. This year, due to the oversupply of steam coal and the worldwide economic slowdown impacting metallurgical coal, U.S. coal exporters faced price cuts of more than $2.00 per ton. In this extremely competitive international market it is not unusual for a contracts for export coal to be won or lost by $.25 per ton or less.

A 50 percent reduction in available vessels to serve the U.S. coal export trade would result in a two-tiered rate system. The vessels available to serve the U.S. market would charge significantly higher rates for moving U.S. coal, while our competitors would benefit from a lower rate system resulting from chartering practices and the efficient use of a fleet.

Conclusion

According to the Energy Information Administration's, "Annual Energy Outlook for 1993", U.S. coal exports are projected to increase from the 1992 level of 102 million short tons to 235 million short tons in 2010. This is a 122 percent increase in coal exports.

The free movement of vessels to and from U.S. ports and the resulting competitive rates is critical to the growth of U.S. coal exports. Title II of H.R. 1402 will eliminate a $4.2 billion export industry and will result in thousands of lost jobs.

In summary, the National Coal Association and its affiliate, the Coal Exporters Association oppose H.R. 1402, as drafted, and continue to believe that the problem of foreign shipbuilding subsidies should and will be resolved in the context of multilateral trade negotiations.

Statement of

GLENN VANSELOW
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(206) 699-4666
Before the
Ways and Means Subcommittee on Trade
U.S. House of Representatives
July 1, 1993

The Pacific Northwest Waterways Association (PNWA) is a regional association that has been working for 59 years to support the development of a national trade policy that sets out the nation's plans for trade development, delineates and coordinates the various federal agencies' trade responsibilities, and provides direction on trade-related issues in setting foreign policy.

PNWA membership includes 149 organizations and individuals in Oregon, Washington, Idaho, and Northern California. PNWA represents:

- Public port authorities on the Pacific Coast, Puget Sound, and Columbia/Snake River Systems;
- Grain growers, grain grower cooperatives, and upriver elevator companies;
- Major manufacturers in the region;
- Forest products industry manufacturers and shippers;
- Transportation providers, consulting engineers, and other users of the Columbia/Snake River System;
- Public utility districts, investor-owned utilities, and direct service industries; and
- Irrigation districts.

PNWA believes that The Shipbuilding Trade Reform Act of 1993 (H.R. 1402), if enacted in its current form, would be extremely detrimental to U.S. ports and would disrupt the orderly movement of millions of tons of waterborne trade throughout the Pacific Northwest. If a legislative remedy is pursued, we support the American Association of Port Authorities (AAPA) recommendation that H.R. 1402 should be amended to minimize its negative impact on U.S. trade.

Paying the fines imposed by this legislation will drive the cost for nearly all vessels, newly constructed or repaired, to call the Pacific Northwest so high that many buyers will simply not pay $500,000 to $1 million per voyage to purchase Northwest commodities. Thus, Pacific Northwest products may not be exported and regional ports will lose business and jobs. In its current form, H.R. 1402 could:

- Damage Pacific Northwest Trade - In 1992, the total value of international trade in the Pacific Northwest was approximately $38 billion. The overwhelming majority of this cargo was carried on foreign flagged vessels. Because the bill would impose significant costs for many ship visits or possibly divert them elsewhere with even the threat of increased costs, it would damage our competitiveness against foreign exporters who don't have these costs.

- Eliminate Pacific Northwest Jobs - This bill could help one small segment of Pacific Northwest industry (shipyards) but it would hurt the much larger Pacific Northwest agriculture, forest products, port, and Columbia and Snake River tug and barge industries by imposing higher shipping costs. As an agriculture resource base region, Pacific Northwest producers must have access to container and bulk ships to carry their products to foreign markets.

PNWA believes that recent developments show that renewed government-to-government negotiations led by the U.S. Trade Representative hold great promise for the elimination (with the least cost to U.S. trade) of foreign shipbuilding subsidies. We encourage the Congress to work with the U.S. Trade Representative in support of renewed negotiations.

STATEMENT FOR THE RECORD OF
STAR SHIPPING A/S CONCERNING H.R. 1402
("SHIPBUILDING TRADE REFORM ACT OF 1993")

Star Shipping A/S of Bergen, Norway is an ocean carrier of forestry products and of other dry bulk commodities. Star has regularly served United States and Canadian trades since the early 1960s. It operates a worldwide fleet of between 70 and 75 dry bulk cargo vessels under both long and short term charter to Star. This fleet includes 40 specially designed forest product vessels of about 42,000 tons deadweight. At any given time Star's worldwide fleet utilizes between 30 and 35 conventional dry bulk cargo vessels. Star has a dedicated fleet of 40 long-term chartered vessels which is supplemented to meet peak demand and other special needs by short term charters of vessels obtained on the world charter market.

A large portion of United States and Canadian export commerce is dependent upon Star's service and upon the service provided by dry bulk cargo fleets which are similar to Star's. None of these competing bulk vessel fleets, so far as Star is aware, include U.S. vessels or carriers, except for bulk grain preference cargoes given U.S. subsidies in the form of cargo reservation for U.S. vessels.

Star alone last year handled nearly 6,000,000 metric tons of exports moving from U.S. and Canadian ports, not counting lumber exports. Most of this cargo consisted of forest products.

H.R. 1402 would, if enacted, make Star's service and the service of similar carriers uneconomic in U.S. trades. Since Star's and similar fleets consist of foreign built dry cargo bulk vessels the highly adverse cost consequences for the carriers creates highly adverse results for U.S. economic interests, and particularly for U.S. exporters of low value commodities such as forest products. These commodities are highly price sensitive; and they make up a large share of total U.S. exports, and they are in substantial degree dependent upon the efficient use of fleets like Star's.

For Star (and similar shipping companies) to meet the needs of U.S. dry bulk cargo exporters and importers, it is essential that Star's fleet operate with economic efficiency <u>and further that it operate with no less economic efficiency in U.S. trades than in trades involving competing countries</u>. That is the only way to assure U.S. exporters access to shipping rates that are competitive with third country sources of supply.

Two basic conditions are essential to keep Star's U.S. export customers competitive in world markets. H.R. 1402 drastically interferes with both these prerequisites.

First, all vessels in a worldwide fleet must be used with to maximum possible efficiency that is only possible if all vessels in the worldwide fleet are subject to use in each trade. Modern vessels involve enormous capital costs and large and constant operating costs. A single new forest products dry bulk vessel can cost $50,000,000 and can generate $20,000 in daily operating costs. Whatever suitable vessel in Star's worldwide fleet is best positioned to handle a cargo movement most efficiently must be a vessel that can be used. The maximization of utilization of

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vessels operating all over the world is a complex task. Enactment of H.R. 1402 would mean that, in U.S. trades, only some vessels in the fleet would be legally "qualified". That would mean that "qualified" vessels would have to be found or transferred in non-revenue service from, for example Korea or Europe, to the U.S. Pacific Northwest to load a U.S. export shipment even when a "non-qualified" $50,000,000 vessel was already approaching a Mexican or Canadian port. The resulting costs to Star or any other carrier participating in U.S. trades would therefore rise drastically. So would the shipping rates Star would have to charge U.S. customers.

Second, it is essential that Star (and similar carriers) be able to charter vessels on the world charter market. If Star were to have long-term financial commitments for all the vessels that are necessary to meet peak needs or to carry cargoes to and from particular ports, the costs would be staggering and prohibitive. To provide an economically efficient service, Star must be able to obtain ships short term on the world charter market if it is to operate with economic efficiency or even to survive. Under H.R. 1402, Star and similar carriers could not effectively use the world charter market to obtain vessels to serve U.S. trades, and costs for U.S. exporters and importers would rise accordingly. It is virtually impossible to determine the ultimate ownership and control of vessels obtained on the world charter market so that use of short-term chartered vessels could always involve a significant legal risk producing a further large cost. If the world charter market were to be divided into ships qualified to trade anywhere and a smaller subset of ships qualified to trade in the U.S. without penalty, the result would inevitably be far higher charter costs and lesser vessel availability in connection with U.S. trades. That raises costs for the U.S. substantially, especially since it appears that the larger portion of the world's dry bulk cargo vessels would be likely candidates for being excluded from U.S. trades by H.R. 1402.

It would be a very serious mistake to assume that Star and similar carriers now serving U.S. ports could simply spread the extra costs created by H.R. 1402 to shippers from other countries. Shipping rates are highly competitive. Carriers in trades not burdened with the inefficiencies and costs imposed by H.R. 1402 (for example, carriers serving only Canadian ports) would have far lower costs and would charge corresponding lower rates to foreign exporters. Therefore, Star could not impose the large incremental costs of H.R. 1402 on customers in other trades, even if it were fair to do so. Moreover, Star could not and would not itself absorb these extra costs. If, however, Star tried to pass these large extra U.S. trade costs created by H.R. 1402 to U.S. shippers, it would more than double their shipping cost and would render them uncompetitive in world markets. (For example: a typical voyage from the U.S. West Coast to the Far East today would carry 10,000 metric tons of U.S. cargo with the balance loaded in Canada. A penalty of $500,000 would thus increase the freight cost by $50 from approximately $45 to $95 per metric ton. For smaller shippers not exporting such big volumes, the effect could be much worse.) Since their cargo would then not be shipped in world trades, the real effect of measures like H.R. 1402 is to eliminate both significant portions of U.S. export trade and to drive the carriers handling such cargoes out of U.S. trades.

An exporting nation like the United States should not be giving serious consideration to a measure like H.R. 1402. H. R. 1402 has much too high a probability of being seriously injurious to, if not destructive of, the United States' position in world export markets. That is particularly so given the fact that relatively low value, price sensitive basic "traded" commodities such as forest products make up such a large part of U.S. exports. Even having such proposals seriously aired is a

disincentive to investment in shipping and export businesses potentially affected.

H.R. 1402 thus reflects dangerous brinkmanship in which the interests of U.S. exporters would be sacrificed. It is safe to say that the nations at which H.R. 1402 is directed cannot or will not abandon or commit to abandon subsidy measures for a variety of domestic reasons in any kind of time frame that would avoid the penalty consequences. Even if there were only a possibility that these countries will not or realistically cannot withdraw their subsidies setting H.R. 1402's penalty machinery in motion would involve unreasonable risks for U.S. export commerce.

H.R. 1402 does not even serve as the most effective form of leverage to achieve reductions in the targeted subsidies. Moreover, H.R. 1402 would injure U.S. interests more quickly and drastically than the interests of the many countries at which it is aimed.

H.R. 1402, if enforced as contemplated, gives Star and similar ocean carriers serving the United States the following options:

-- (1) dispose of vessels in the fleet that are controlled by citizens or nationals of listed countries and forego chartering such vessels in the future so as to maintain a single versatile fleet that can operate worldwide without restrictions;

-- (2) create a segregated sub set of the fleet consisting of vessels not associated with listed countries and dedicate this sub-set to vessels to serving the U.S. market; or

-- (3) cease serving the United States market.

Each of these options produces large adverse effects on U.S. exporters whose shipping rates must reflect the underlying costs.

The first option above (disposing vessels from listed countries that are in Star's worldwide fleet and acquiring all vessels from non-listed countries) is one that Star could not and would not adopt. It would be financially ruinous, during the expected life of Star's vessels, to dispose of them whenever a country is listed under H.R. 1402 and then to turn around and acquire new or different vessels controlled by nationals of countries not then on the list. A carrier cannot simply acquire and dispose of vessels as if they were Hertz rental cars whenever a governmental listing changes. Carriers can only survive, operate economically and provide service at competitive rates if they are shrewd in making long-term decisions in acquiring,r building and disposing of vessels at the right point in market cycles and, similarly, if they pay no more for vessels than their international competitors pay.

The second option above -- creating a special fleet of vessels controlled by nationals of non-listed countries and dedicated to U.S. trades -- would be extremely costly. Not only would vessel and fleet costs be substantially increased but the segregation of a fleet operating worldwide into two segments defeats the basic efficiencies in vessel use on which Star's whole operation depends. The resulting shipping costs of this option for U.S. exporters would likely be so high, compared to costs of shipping from third country sources, that there would insufficient U.S. exports of most major moving export commodities to fill the ships in any event.

The third option -- withdrawal from U.S. trades or curtailment of Star's operations in U.S. trades -- is not one that Star would welcome after decades of service to the U.S. However, it is likely to be the option that H.R. 1402 would thrust upon Star and upon similar carriers. To take but one

example, Star now handles forest products from the west coast of Canada and from the United States often by using the same vessels calling in both Canada and the U.S. However, Star simply could not compete in the Canadian export market using only vessels that were not controlled by nationals of countries that are likely to be on any H.R. 1402 list. Star's competitors serving only Canada would be free of this very costly requirement, would have far lower costs and lower rates from Canada than prevailed from the U.S. Since Star's U.S. exporters would not be able to compete with Canadian exporters by absorbing all these extra costs, and since Canadian exporters will not pay them, the prudent thing for Star would be to curtail or to eliminate its service to the U.S. and concentrate instead on the Canadian market.

Star's position is not one of support for subsidies of shipbuilders, ship operators or ship repairers. Such subsidies distort the marketplace. Star itself is adversely affected by U.S. subsidies. Star vessels carry bulk grain. Cargo preference measures imposed by the U.S. on grain exports are clearly subsidies for U.S. carriers of such commodities. They vastly increase the cost of shipping the grain, and they exclude Star and other carriers from the competitive market.

H.R. 1402, however, is a remedy for subsidies that would be far more disruptive to the market than the subsidy problem which it addresses. H.R. 1402 will not work. It is far too blunt an instrument, and it risks far too much damage to U.S. and world trade to be a prudent or effective way of achieving a reduction in foreign subsidies.

The United States has, since World War I, provided enormous subsidies to a U.S. flag merchant marine and to U.S. shipyards in the form of direct operating and construction subsidies, cargo set asides, government guaranteed construction loans, "build American" requirements, tax breaks, etc. Some forms of these subsidies continue to exist. The United States may now be engaged in a commendable process of phasing out its own bad past habits. However, that does not make it appropriate or effective to adopt extreme measures like H.R. 1402 aimed at friendly countries and allies of the U.S. simply because their policies and domestic political considerations are not changing at exactly the same time and pace as changes in U.S. policy or changes forced by U.S. budgetary constraints. If, as in the case of H.R. 1402, these extreme measures will injure the U.S. itself far faster and more drastically than it injures anyone else the measures clearly make no sense from a national interest standpoint.

June 30, 1993

Ms. Janice Mays
Chief Counsel and Staff Director
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Ms. Mays:

Stevedoring Services of America (SSA) wishes to register our strong opposition to H.R. 1402, the "Shipbuilding Trade Reform Act of 1993".

SSA is the largest marine terminal operator, stevedore and rail intermodal operator in the United States. We operate in 37 ports throughout the U.S. West Coast and South Atlantic, handling over one million containers and 15 million tons of bulk and breakbulk cargoes annually. We also operate 22 rail intermodal yards, handling over two million containers per year. SSA employs approximately 700 administrative and management personnel and an average of 3,000 union employees.

SSA provides port-related services to over 30 ocean-going carriers calling U.S. ports that would be directly impacted by H.R. 1402. We have witnessed many of these carriers revise their shipping routes and ports of call with the imposition of increased port tariff charges, local and state taxes or other assessments that effect their ability to compete and survive financially. The financial penalties and restrictions proposed under H.R. 1402 would generate a similar if not more severe response from carriers.

For foreign carriers with vessels calling U.S. ports and registered under the flag of their country which provides shipbuilding subsidies, H.R. 1402 would assess penalties of limiting sailings, denying Customs' clearance, and/or imposing fees of $500,000 to $1 million per voyage.

With the adoption of H.R. 1402, these carriers would have no realistic alternative but to divert cargo to the increasingly competitive ports of Canada or Mexico. Furthermore, we consider H.R. 1402 provisions to deny U.S. entry for "diverted cargo" impractical to implement and an administrative nightmare.

We recognize that H.R. 1402 is intended to help a depressed shipbuilding industry in the U.S., but in reality could devastate all other aspects of the maritime industry and those companies dependent on trade.

SSA urges the House Subcommittee on Trade to reject H.R. 1402 as legislation that would damage U.S. trade, devastate the U.S. maritime industry, destroy American jobs, divert U.S. cargo and cruise operations, and invite foreign retaliation.

Sincerely,
STEVEDORING SERVICES OF AMERICA

Jon Hemingway

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President
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WRITTEN STATEMENT OF
VERA PAKTOR
EXECUTIVE DIRECTOR
UNITED STATES GREAT LAKES SHIPPING ASSOCIATION

BEFORE THE HOUSE WAYS AND MEANS TRADE SUBCOMMITTEE
JULY 1, 1993

ON H.R. 1402
"SHIPBUILDING TRADE REFORM ACT OF 1993"

Mr. Chairman and members of the Subcommittee, I am writing on behalf of the United States Great Lakes Shipping Association, a Great Lakes wide trade association of steamship agents and vessel operators engaged in the international Great Lakes trades. The Association, with members in all eight Great Lakes states, has operated continuously since 1956, three years in advance of the opening of the St. Lawrence Seaway system that links the U.S. midwest directly to the rest of the world.

Steamship agents and vessel operators engaged in the international Great Lakes trades are very concerned with the certain damage to the Great Lakes maritime industry that enactment of H.R. 1402 would cause. Last year we strongly opposed H.R. 2056 because it would have placed an unreasonable burden for repayment of subsidies on operators of certain foreign flag ships who are almost never involved in vessel construction or repair decisions and because enactment of H.R. 2056 would not have helped to accomplish the Bill's goal of revitalizing U.S. shipyards. (Because American flag carriers do not serve the international U.S. Great Lakes trades, the Great Lakes maritime industry is wholly dependent on foreign flag vessel traffic for its survival).

We believe that H.R. 1402 will also fail to revitalize U.S. ship yards. It will cause economic hardship not only for those engaged in the Great Lakes maritime industry, but to the U.S. economy in general. It will certainly significantly increase costs for ships doing business in U.S. Great Lakes ports, resulting in the diversion of U.S. origin/destination cargoes and ships through Canadian ports while still failing to guarantee improved shipbuilding and repair for U.S. yards. Because of the steady and significant loss over the last 10 years of vessel traffic through Great Lakes ports, any additional diversion now could result in the closing of major Great Lakes ports, the loss of millions of dollars in revenues derived from vessels calling at Great Lakes ports, and the loss of thousands of shoreside jobs.

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We believe that the issue of foreign subsidies must be reconciled and strongly urge the revitalization of Organization for Economic Cooperation and Development (OECD) multilateral negotiations to eliminate shipbuilding subsidies as the best way to deal with foreign shipbuilding subsidies. But we also believe that the U.S. should admit its own former and current maritime industry subsidy practices while demanding that foreign countries eliminate theirs.

Although the construction differential subsidy program has not been funded since 1981, other subsidy programs assisting U.S. shipyards are still in place. Under Title XI of the Merchant Marine Act of 1936, the U.S. government can guarantee the principal and interest on commercial financing for the construction of vessels in U.S. yards. Under the Capital Construction Fund, U.S. flag carriers can defer taxes on earnings deposited into fund accounts for future use in building U.S. flag vessels. And U.S. flag operators who repair their ships in foreign yards must pay a 50 percent ad valorem penalty for maintenance and repair work done overseas. Other U.S. government programs and laws--such as the Jones Act and cargo preference--also provide a form of government subsidy. The construction of "fast sealift" vessels that are built exclusively in U.S. shipyards also provide billions of dollars in business for U.S. shipyards.

H.R. 1402 does not guarantee an increase in U.S. shipyard business. Nor does it require U.S. shipyards to operate more competitively in an effort to increase their share of world-wide shipbuilding and repair business. H.R. 1402 fails to provide long term solutions to an economic dilemma that requires more than the "quick fix" offered by this Bill.

H.R. 2056 failed to provide a sufficient means for the revitalization of the U.S. shipbuilding industry while potentially devastating the rest of the U.S. maritime industry. H.R 1402 does little more to guarantee that its implementation will improve U.S. shipyard business and does very little to protect the rest of the industry from serious financial harm.

It is unlikely that the Great Lakes maritime industry--steamship agents, ports, stevedores, freight forwarders and others dependent on vessel traffic--could survive the cargo diversion impact of H.R. 1402. Therefore, the U.S. Great Lakes Shipping Association strongly opposes H.R. 1402 and urges you to seek other remedies for the revitalization of the U.S. shipbuilding industry.

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